Johnson v. Wyoming

Challengers' argument that the law is unconstitutional without a religious exemption for Jews

Re: Exhibit 10 – Statement by Rabbi Danya Ruttenberg

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Rabbi Danya Ruttenberg is the Scholar in Residence of the National Council of Jewish Women; an organization whose mission includes the overturning of pro-life laws throughout the United States.

Her arguments rest on the idea that the baby in utero is not a person. This is the same issue that Supreme Court Justice Blackmun wrestled with during the Roe v Wade discussion. If the baby has personhood, the challenger arguments fall apart.

It is important to note that, under Wyoming law, a fetus has many rights. These are long standing rights.

She claims that the Wyoming laws violate the beliefs of Judaism. However, in paragraph 6 she refers to the 10 Commandments which includes the phrase "thou shalt not murder."

However, in paragraph 8, she misrepresents Exodus 21:22-25. The Hebrew word in the text she refers to is departs and not dies as far as the injury to the mother that causes harm to the baby. This misinterpretation is commonly used to deny the existence of the baby as a person. Without this misrepresentation, the challengers' arguments fall apart.

In paragraph 13, she cited the Babylonian Talmud which includes the line: "if she is found pregnant, until the fortieth day it is mere fluid" Again, this is an attempt to deny the existence of a baby. This is a belief by a Rabbi from far back in history.

This argument falls apart on two levels. First, the Talmud is the interpretations of Jewish law and the text in the Torah. The Talmud writings are over 2,000 pages of

commentary over centuries. An analogy would be the Wyoming laws vs. the interpretations by courts and scholars.

Secondly, do any current biology students, doctors or scientists believe that a pregnant woman contains something other than a baby during the first 40 days. What, then does pregnant actually mean. This is pure nonsense and denies reality. Again, Rabbi Ruttenberg attempts to deny the humanity of the baby.

Again, in paragraph 18, the baby's existence as a unique human being is denied by citing one line in a Talmudic debate. She claims that the baby is a part of the mother. This does not comport with modern science.

What she does not state is the Talmudic verse that a person may not cut themselves. By killing a baby through an abortion, if the baby is part of the mother, is she not allowing herself to be cut?

In paragraph 19, she calls the baby a potential life denying its existence. However, in the same paragraph she describes a passage in the Mishnah (a part of the Talmud) which instructs the brutal destruction of the child.

Here again, her argument falls apart because this passage states that the baby is a person.

Paragraph 21 cites Rashi, an 11th century commentator who claimed that the baby does not have life until it leaves the womb and breaths. If so, why does abortion kill something that does not yet have life?

She goes on in several paragraphs about women who do not want to continue their pregnancy for emotional reasons. With this argument, there would be no limit on abortions.

In paragraph 49, she claims that "Jews hold abortion access as a sacred value…" It is not. It is supposed to be available in only rare circumstances.

What she does not state is that, in traditional Judaism, a woman seeking an abortion needs to have a rabbi agree along with the doctor and the family.

Would the court accept the idea of a religious exemption and rule a law unconstitutional if someone said, "My religion requires that I marry a child under the age of 10?" Along the same line how is an argument for human sacrifice an

acceptable argument for a religious exemption? Is not this argument as heinous and harmful to the public as allowing for child brides?

If the court accepts the challengers' argument, is it not imposing someone's supposed religious belief on everyone else? The challengers falsely claim that a small number of religious people are imposing their will on others when the Legislature enacted these laws. In fact, the challengers' arguments, if accepted by court, are imposing their will so that a handful of people can kill unborn children at will.

In the legislation that has been enacted, the Wyoming Legislature overwhelming stated what the vast majority of the people of the state believe; that killing babies is not a constitutional right except in certain situations such as when the pregnancy threatens the life of the mother. Even there, few OBGYNs ever perform abortions as it is not required and even harmful to do so to the mother.

Furthermore, there is nothing within our constitution providing a right to abortion and there never was. The court cannot create a right that does not exist in law.