

## **John G. Roberts, Jr.**

Throughout Roberts' tenure in the Department of Justice and the White House during the Reagan and first Bush Administrations, the Administrations actively worked to overturn *Roe v. Wade* and restrict reproductive rights. Mr. Roberts, particularly as Principal Deputy Solicitor General, played an active role in these efforts to abridge women's rights and access to abortion services. The Solicitor General's office is highly effective in arguing before the Supreme Court and its arguments are often adopted by the Court, whether made as a party to the case or as an *amicus curiae*.

### **Career\***

- Judge, U.S. Court of Appeals for the D.C. Circuit, 2003-present.
- Partner, Hogan & Hartson (head of the appellate group), Washington, DC, 1993-2003.
- Previously nominated by President George H.W. Bush to the U.S. Court of Appeals for the D.C. Circuit, 1992.
- Principal Deputy Solicitor General of the United States, 1989-93.
- Associate, Partner, Hogan & Hartson, Washington, DC, 1986-89.
- Associate Counsel to President Ronald Reagan, 1982-86.
- Special Assistant to U.S. Attorney General William French Smith, 1981-82.
- Clerk, Associate Justice William H. Rehnquist, U.S. Supreme Court, 1980-81.
- Clerk, Judge Henry J. Friendly, U.S. Court of Appeals for the Second Circuit, 1979-80.

### **Education\***

- Harvard Law School, J.D., 1979.
- Harvard University, A.B., 1976.

### **Biographical Information\***

- Born January 27, 1955 in Buffalo, New York.
- Member, The Federalist Society for Law and Public Policy.

### **Hostility to Reproductive Rights**

- As Principal Deputy Solicitor General, Roberts argued in a brief before the U.S. Supreme Court (gratuitously, since the case did not implicate *Roe v. Wade*) that "[w]e continue to believe that *Roe* was wrongly decided and should be overruled.... [T]he Court's conclusion in *Roe* that there is a fundamental right to

---

\* Information compiled from the U.S. Department of Justice Biographical Information submitted by Mr. Roberts.

an abortion... finds no support in the text, structure, or history of the Constitution.”<sup>1</sup>

- In *Rust v. Sullivan*,<sup>2</sup> the Supreme Court considered whether Department of Health and Human Services regulations limiting the ability of Title X recipients to engage in abortion-related activities violated various constitutional provisions. Roberts, appearing on behalf of HHS as Principal Deputy Solicitor General, argued that this domestic gag rule, whereby doctors working in family planning programs receiving federal funds were barred from even discussing abortion options with patients, did not violate constitutional protections.
- Roberts, again as Principal Deputy Solicitor General, argued for the United States as *amicus curiae* in support of Operation Rescue and six other individuals who routinely blocked access to reproductive health care clinics, arguing that the protesters’ behavior did not amount to discrimination against women, even though only women could exercise the right to seek an abortion. Intervening as *amicus* is a wholly discretionary decision on the part of the Solicitor General. Here the government chose to involve itself in a case in support of those who sought to deprive women of the right to choose through massive, often violent, blockades. Roberts argued that the protesters’ blockades merely amounted to an expression of their opposition to abortion and that a civil rights remedy was therefore inappropriate.<sup>3</sup> The case *Bray v. Alexandria Women’s Health Clinic*<sup>4</sup> – presented the Supreme Court with the question of whether the Civil Rights Act of 1871 provided a federal cause of action against persons obstructing access to abortion clinics. The year after *Bray* was decided, Congress enacted the Freedom of Access to Clinic Entrances Act to protect women and health care providers from violence and harassment.<sup>5</sup>
- Overturning a woman’s right to choose was a cornerstone of the first Bush Administration, as signaled by the fact that Solicitor General Kenneth Starr himself argued reproductive rights cases before the Supreme Court.<sup>6</sup> The Court was so accustomed to the Solicitor General and the Principal Deputy Solicitor General arguing for the overturn of *Roe* that, during Mr. Roberts’ oral argument before the Supreme Court in *Bray*, a Justice asked, “Mr. Roberts, in this case are you asking that *Roe v. Wade* be overruled?” He responded, “No, your honor, the issue doesn’t even come up.” To this, the Justice said, “Well that hasn’t prevented the Solicitor General from taking that position in prior cases.”<sup>7</sup>

July 2005

**Notes:**

<sup>1</sup> Brief for the Respondent at 13, *Rust v. Sullivan*, 500 U.S. 173 (1991) (Nos. 89-1391, 89-1392).

<sup>2</sup> *Rust v. Sullivan*, 500 U.S. 173 (1991).

<sup>3</sup> Transcript of Oral Reargument of John Roberts, Jr., dated Oct. 6, 1992, *Bray v. Alexandria Women’s Health Clinic*, 506 U.S. 263 (1993) (No. 90-985).

<sup>4</sup> *Bray v. Alexandria Women’s Health Clinic*, 506 U.S. 263 (1993).

<sup>5</sup> 18 U.S.C.A. § 248 (1994).

<sup>6</sup> Transcript of Oral Argument of Kenneth W. Starr, dated Apr. 22, 1992, *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1993) (Nos. 91-744, 91-902); Transcript of Oral

Argument of Kenneth W. Starr, dated Oct. 30, 1990, *Rust v. Sullivan*, 500 U.S. 173 (1991) (Nos. 89-1991, 89-1392).

<sup>7</sup> Transcript of Oral Argument of John Roberts, Jr., dated Oct. 16, 1991, *Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263 (1993) (No. 90-985).