

Alabama Supreme Court Validates Rights of Unborn Children

In a decision that has major implications for the **pro-life movement**, the Alabama Supreme Court on Friday issued a unanimous ruling that a mother may pursue a wrongful death claim on behalf of her pre-viable unborn child.

In the case of *Hamilton v. Scott*, Amy Hamilton filed suit against several doctors and a medical group for the wrongful death of her unborn child. She claimed the lack of proper medical intervention resulted in the child's death. Experts agreed the child was at the pre-viable stage of pregnancy and could not have survived if born at that stage of pregnancy.

"This decision by the Alabama Supreme Court is an example of a ruling consistent with legal precedent and logic," said Mathew Staver, founder and chairman of Liberty Counsel. "Recovery for wrongful death of an unborn child does not depend on an arbitrary line of viability, because that line is based solely on existing medical technology.

Justice Tom Parker, joined by three other Justices, issued a special concurring opinion, in which he specifically addressed that **Roe v. Wade** does not prevent such a ruling and that viability is arbitrary and changes with medical technology. Parker wrote that Roe is out of step with every other area of law in which many state legislatures and courts have recognized the rights of the unborn child in wills and estates, tort or criminal law, and more.

Parker also cited a prior ruling of the Alabama Supreme Court in *Wolfe v. Isbell*, 291 Ala. 327, 330-31, 280 So. 2d 758, 768 (1973), in which the court wrote, "that from the moment of conception, the fetus or embryo is not a part of the mother,

but rather has a separate existence within the body of the mother."

Parker also wrote that "Roe's viability rule was based on inaccurate history and was mostly unsupported by legal precedent. Medical advances since Roe have conclusively demonstrated that an unborn child is a unique human being at every stage of development ... Roe's viability rule is neither controlling nor persuasive here and should be rejected by other states until the day it is overruled by the United States Supreme Court."

"From the moment of conception and at all stages of development in the womb, the **unborn child** is a human being," Staver said. I applaud Justice Tom Parker's clear and well-reasoned concurring opinion, which conclusively shows that *Roe v. Wade*'s viability rule does not apply, was based on flawed legal reasoning, and is undermined by advances in medical technology. The life expectancy of Roe is limited and is being undermined by every other area of law and medicine."