

# Constitutional Fetal Personhood No. 2

X brings a quiet title action against Y. X puts on his case in chief, and the judge rules for X without giving Y the opportunity to be heard. The matter would, as a matter of course, be reversed on appeal on the grounds that Y was denied his due process right to be heard. In Roe v Wade the Court afforded Jane Roe the opportunity to argue that here unborn child does not qualify as a due process clause person. The Court agreed - but denied said child an opportunity to be heard. Such a denial of due process is reversible per se; but pro-life attorneys refuse to demand a reversal here because "there is no precedent" for constitutional fetal personhood. There was no constitutional precedent for Roe's holding that procured abortion is a fundamental right. But that lack of precedent did not stop the Roe Court from ruling that procured abortion is a woman's fundamental right. In any event, lack of precedent (i.e., the "absence of law"), by definition, cannot constitute law. "The mere absence of a decision in point is not logically relevant in a case-law system because the point may not have been brought before."

It is procedure (due process of law) that safeguards rule by the rule of law vs. rule by judicial fiat. Far and away the greatest due process procedural error ever committed by a judicial body in the history of Anglo-American (as far back as the 12<sup>th</sup> Century A. D.) is the failure of our Supreme Court in Roe v Wade to afford Jane Roe's unborn child his due process guaranteed right to argue for his very life through the appointment of a guardian ad litem (and counsel). So, why does the AUL (Americans United for Life), the great legal arm of the pro-life movement ignore this presentation, notwithstanding that it cannot not even begin to put the slightest of constitutional dents in my presentation? In ignoring this presentation, the AUL has turned its back on the conceived unborn child, and therefore the AUL should be consigned to oblivion. The pro-life movement is in great need of a pregnant heart

9 "All persons living under the jurisdiction of the United States are entitled to  
10 due process of law." It is undisputed that the question or issue in Roe v Wade of  
11 constitutional fetal personhood constituted an adjudicatory hearing. It is also  
12 undisputed that the only form of due process of law that can be afforded an unborn  
13 child in an adjudicatory hearing is the appointment of a guardian ad litem (together  
14 with his attorney). In the course of deciding whether the unborn child qualifies as a  
15 due process clause person the Roe Court failed to appoint a guardian ad litem to  
16 represent Jane Roe's unborn child. In not appointing so, the Roe Court in effect  
17 "assumed" that said unborn child does not qualify as a due process clause person;  
18 for otherwise the Roe Court would have made the guardian ad litem appointment  
19 so as to at least give the unborn child his due process clause right to argue that he  
20 qualifies so. And what is assumed is not thereby decided no matter what the Court  
21 said it decided. So, this means that the constitutional question of fetal personhood  
22 remains undecided; which frees the states to outlaw abortion (without violating  
23 Roe v Wade) on the grounds that the unborn child qualifies as a due process clause  
24 person. Roe, itself states that if the unborn child qualifies so, then there is no  
25 constitutional right to a procured abortion. There is no question period but that the  
conceived unborn child qualifies as a due process clause person. Reasonable minds  
cannot deny this. ( See Philip A Rafferty, A Silver Bullet for Roe V Wade Revised  
2 (2016) at pp.5-6, 15-17 & 22, uploaded in [www.parafferty.com](http://www.parafferty.com)) Only minds  
enslaved by certain ideologies that have no bearing on constitutional law will deny  
constitutional fetal personhood. So, this petition provides the states with a valid  
legal means of getting around Roe v Wade's abortion dictates and then coming  
back and burying Roe on its own constitutional grounds. Anti-abortion states have  
an absolute duty under our Declaration of Independence to stand up to the USSC  
when it comes to sanctioning procured abortion under our Constitution. Unborn  
children are no less constitutional persons than are walking around persons and  
must be protected according to our Independence the Declaration:  
"When...government becomes destructive [of securing and protecting fundamental  
or unalienable rights], it is the Right [and Absolute duty] of the People to alter or to  
abolish it." The absolute only hope of securing constitutional fetal personhood is  
for the pro-life states and organizations to revolt non-violently against the USSC  
when it comes to procured abortion. They should not give an inch: the unborn  
constitutional person is not to be compromised period or aborted period.