

05-380 GONZALES V. CARHART

DECISION BELOW:413 F3d 791

LOWER COURT CASE NUMBER: 04-3379

QUESTIONS PRESENTED:

The Partial-Birth Abortion Ban Act of 2003 (the Act), Pub. L. No. 108-105, 117 Stat. 1201 (to be codified at 18 U.S.C. 1531), prohibits a physician from knowingly performing a "partial-birth abortion" (as defined in the statute) in or affecting interstate commerce. § 3, 117 Stat. 1206-1207. The Act contains an exception for cases in which the abortion is necessary to preserve the life of the mother, but no corresponding exception for the health of the mother. Congress, however, made extensive factual findings, including a finding that "partial-birth abortion is never medically indicated to preserve the health of the mother." § 2(14)(0), 117 Stat. 1206.

The question presented is as follows:

Whether, notwithstanding Congress's determination that a health exception was unnecessary to preserve the health of the mother, the Partial-Birth Abortion Ban Act of 2003 is invalid because it lacks a health exception or is otherwise unconstitutional on its face.

CERT. GRANTED 2/21/2006