



Samuel Alito, Jr.

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Biography

- Born April 1, 1950, in Trenton, NJ
- Supreme Court Justice 2006–present (appointed by President George W. Bush)

Current Role on the Supreme Court

- Justice Alito is one of four solidly anti-choice members of the Court, along with Chief Justice Roberts and Justices Scalia and Thomas. During his tenure in the Reagan Administration and as a judge on the United States Court of Appeals for the Third Circuit he consistently made clear that he does not believe that the Constitution protects a woman's right to choose. While he has only served on the Supreme Court for a short time, he has already expressed his anti-choice position with his vote to uphold the Federal Abortion Ban.
- Justice Alito is the newest member of the Supreme Court and is also the second-youngest member.

A History of Opposition to Reproductive Freedom

- As an assistant to the Solicitor General, Alito penned a June 3, 1985, memo in which he recommends that the Reagan administration intervene in two abortion-related cases before the Supreme Court in order to advance the administration's anti-choice agenda.²
 - The lengthy memo details Alito's legal strategy to dismantle core protections of *Roe v. Wade*, while pushing toward the ultimate goal of overturning the landmark decision altogether. Then he poses the question, "What can be made of this opportunity to advance the goals of bringing about the eventual overruling of *Roe v. Wade* and, in the meantime, of mitigating its effects?"³
 - In the memo, Alito endorses even the most intrusive and unreasonable restrictions on a core constitutional right. Perhaps most disturbingly, he sees nothing wrong with the government forcing doctors to tell patients

that their use of birth control may cause abortions—information which is decidedly inaccurate. He asks rhetorically, “What . . . is the objection to informing a woman that certain methods of birth control are ‘abortifacients,’ *i.e.*, that they do not prevent fertilization but terminate the development of the fetus after conception?”⁴

- As a judge on the Third Circuit, Alito voted to allow states broad power to restrict a women’s right to choose in the case of *Planned Parenthood of Southeastern Pennsylvania v. Casey*. Prior to the case going before the Supreme Court, Alito wrote a dissent in which he voted to uphold every restriction on the right to choose at issue in the case.⁵ The Supreme Court ultimately disagreed with his assessment of one of those restrictions and struck it down as an unconstitutional burden on a women’s right to choose.⁶
 - His Third Circuit opinion argued in favor of a statute that would have forced married women to notify their husbands before seeking abortion services, even though the statute could endanger women in abusive situations who may face harm if forced to notify their husbands.
 - Finding that the provision did not impose an undue burden, Alito coldly argued that plaintiffs failed to prove with sufficient precision the number of women who would be harmed by the provision and that most women would probably not be affected.⁷
- In his first reproductive rights case as a member of the Supreme Court, Justice Alito voted to uphold the Federal Abortion Ban, federal legislation that outlaws certain second-trimester abortions and does not include any exception for when a woman’s health is threatened.⁸

Notable Quotations

*“What can be made of this opportunity to advance the goals of bringing about the eventual overruling of *Roe v. Wade* and, in the meantime, of mitigating its effects?”⁹*

*“What . . . is the objection to informing a woman that certain methods of birth control are ‘abortifacients,’ *i.e.*, that they do not prevent fertilization but terminate the development of the fetus after conception?”¹⁰*

“[I]t has been an honor and source of personal satisfaction for me to serve in the office of the Solicitor General during President Reagan’s administration and to help to advance legal positions in which I personally believe very strongly. I am particularly proud of my contributions in recent cases in which the government has argued in the Supreme Court that . . . the Constitution does not protect a right to an abortion.”¹¹

Notes:

- ¹ Application for Deputy Assistant Attorney General, Samuel A. Alito, Jr., Nov. 15, 1985.
- ² Memorandum to the Solicitor General from Samuel A. Alito re: *Thornburgh v. American College of Obstetricians and Gynecologists* no. 84-495; *Diamond v. Charles*, No. 84-1379, May 30, 1985.
- ³ Memorandum to the Solicitor General from Samuel A. Alito re: *Thornburgh v. American College of Obstetricians and Gynecologists* no. 84-495; *Diamond v. Charles*, No. 84-1379, May 30, 1985, at 8.
- ⁴ Memorandum to the Solicitor General from Samuel A. Alito re: *Thornburgh v. American College of Obstetricians and Gynecologists* no. 84-495; *Diamond v. Charles*, No. 84-1379, May 30, 1985, at 9. Virtually all reputable medical authority, and government regulations, defines pregnancy as dating from implantation, not conception.
- ⁵ *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 947 F.2d 682 (3d Cir. 1991) (Alito, J., concurring in part and dissenting in part).
- ⁶ *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).
- ⁷ *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 947 F.2d 682, 719–27 (3d Cir. 1991) (Alito, J., concurring in part and dissenting in part).
- ⁸ *Gonzales v. Carhart* and *Gonzales v. Planned Parenthood Federation of America*, 127 S. Ct. 1610, 1618 (2007).
- ⁹ Memorandum to the Solicitor General from Samuel A. Alito re: *Thornburgh v. American College of Obstetricians and Gynecologists* no. 84-495; *Diamond v. Charles*, No. 84-1379, May 30, 1985, at 8.
- ¹⁰ Memorandum to the Solicitor General from Samuel A. Alito re: *Thornburgh v. American College of Obstetricians and Gynecologists* no. 84-495; *Diamond v. Charles*, No. 84-1379, May 30, 1985, at 9. Virtually all reputable medical authority, and government regulations, define pregnancy as dating from implantation, not conception.
- ¹¹ Application for Deputy Assistant Attorney General, Samuel A. Alito, Jr., Nov. 15, 1985.