

Indiana court overturns woman's feticide conviction

Brian Eason

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The Indiana Court of Appeals on Friday overturned the 2015 feticide conviction of Purvi Patel, the Northern Indiana woman whose botched, self-induced abortion became a flash point in the national debate over abortion rights.

In a 3-0 ruling, the judges said that the state feticide statute was not intended to apply to abortions, and legal experts said that — barring a successful appeal — it should give Indiana prosecutors pause before bringing similar charges against pregnant women in the future.

In its decision, the court relied heavily on how prosecutors have applied the feticide law in the past, noting that this case was an “abrupt departure” from its typical usage: cases in which a pregnant woman and her unborn child are the victims of violence.

“The state’s about-face in this proceeding is unsettling, as well as untenable” under prior court precedent, Judge Terry Crone wrote in the ruling.

The court also said that because many of the state abortion laws dating to the 1800s explicitly protect pregnant women from prosecution, it was a stretch to believe that lawmakers intended for the feticide law to be used against pregnant women who attempt to terminate a pregnancy. A controversial bill passed earlier this year that would ban abortions sought because of a disability contained similar language protecting pregnant women. But even as the judges overturned the feticide and a Class A felony conviction, Friday’s ruling wasn’t a total victory for Patel. It stopped short of clearing her of any criminal responsibility for what transpired on July 13, 2013, upholding a lower-level felony neglect conviction for failing to provide medical care to the baby, who medical experts testified was alive and breathing after birth.

Patel was arrested when she sought treatment at a local hospital for profuse bleeding after delivering a 1 1/2-pound boy in a bathroom and putting his body in a dumpster behind her family’s restaurant. Court records show she bought abortion-inducing drugs from an online pharmacy based in Hong Kong. Patel, who was 32 at the time, used the drugs because she feared her family would discover she had been impregnated by a married man, according to court documents. Patel lived with her parents and grandparents in Granger, a city just northeast of South Bend along the Michigan border. Legal experts at the time said her 20-year sentence for feticide and neglect of a dependent added up to one of the most severe penalties an American woman has faced for aborting her own pregnancy.

It’s too early to tell whether Friday’s ruling will set a precedent, experts said, but the decision contains the strongest language yet drawing a legal distinction between illegally performed abortions and feticide.

“If it’s not appealed to the Supreme Court, I think it should give Indiana prosecutors pause before bringing any feticide charges against pregnant women,” said Kate Jack, an Indiana-based attorney who provides local counsel for the National Advocates for Pregnant Women. “I’m not willing to say the issue is 100 percent closed, but I do think it will really give pause.”

Attorney General Greg Zoeller had argued on behalf of the state that the Indiana General Assembly never intended the abortion statute to be the sole avenue of prosecution, and that Patel’s actions should fall under the feticide statute, a subsection of Indiana’s homicide law.

In response to the ruling, Zoeller’s office issued a statement saying it would review the decision and consult with its clients on the next legal steps.

“We appreciate the prompt ruling by the Indiana Court of Appeals in rendering a decision addressing difficult and novel legal questions,” Zoeller’s office said in a statement. “For the public, this case involves an emotional subject for many. One of the strengths of our system of justice is that it affords the opportunity through an appeal to test whether a trial court’s proceedings were fair or not, and reverse or modify an incorrect decision or uphold a correct decision.” Abortion rights advocates cheered the feticide ruling but said that upholding the felony conviction sent a “mixed message” for women and threatened to create a “dangerous divide” between doctors and patients.

“The research is clear. If pregnant people fear criminal consequences, they don’t go to the doctor,” said Shelly Dodson, director of All-Options Pregnancy Resource Center in Bloomington.

Contributing: The Associated Press and IndyStar reporter Jill Disis.