

Alabama wrongful death case breathes new life into life debate

Johnston, Moore & Thompson posted in Wrongful Death

- 21 February 2012

When it comes to controversial subject matters, there's no doubt that abortion is somewhere at the top of that list. For good reason, people have passionate decisions on all sides of the emotional issue, and those passions enter the realm of the law as courts continue the battle in trying to define when life starts.

This matter comes up on this personal injury blog because of a recent decision made by the Alabama Supreme Court. The case before the justices involved a plaintiff who wanted to sue a hospital for wrongful death after the loss of her fetus. A lower court had denied the plaintiff that option because the life inside her wasn't yet viable at the time of the loss.

This is an extremely sensitive subject, and in no way are we taking sides in this blog post. But the Alabama court's decision is important to share because of how seriously people in this state and throughout the U.S. take the issue of life. The court's decision to allow the plaintiff to move forward with the wrongful death lawsuit holds, at least through Alabama's eyes, that life begins at conception.

People on both sides of the abortion issue believe that the Alabama decision chips away at the ruling in *Roe v. Wade*, which states that life is only viable if doctors assert that it could survive outside of the womb. The plaintiff in the Alabama case was not far enough along in her pregnancy for her fetus to have survived outside; yet, the court still supports her right to seek damages through a wrongful death lawsuit.

The opinion by Judge Thomas Parker highlights how the viability rule as posed in *Roe v. Wade* has not stopped other personal injury or criminal cases involving the death of a fetus from moving forward in the courts. The issue of viable versus nonviable, according to the opinion, has no bearing on whether the people have interest in protecting all fetuses as persons.

Following the controversial ruling, the plaintiff in this case will return to a lower court and have the opportunity to sue for wrongful death.

Source

Fox News: "[Alabama court's wrongful death ruling used to recommend abandoning Roe 'viability' argument](#)," Feb. 20, 2012