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The “Personhood” Distraction

Mississippi voters will cast their ballots on November 8 for or against Initiative 26, which would make every “fertilized egg” a “person” as a matter of law. Many have rightly condemned this so-called personhood initiative as an attack not only on abortion rights, but also on the ability to practice widely used methods of birth control, to attempt in vitro fertilization, and to grieve a miscarriage in private, without a criminal investigation by the state. These are all well founded criticisms of the Mississippi measure and its consequences, whether intended or unintended.

These criticisms, however, fail to identify another flaw in the reasoning of the initiative’s proponents. The proponents assume that attaching the label of “person” to fertilized eggs, embryos, and fetuses necessarily establishes a legal basis for criminalizing abortion, or even for requiring its criminalization.

Yet, our laws and our legal tradition have never punished all behavior that results in the death of a person. First, our laws have never required one individual to give up part of his or her body to save another person, even the individual’s own child. While we always find admirable, for exam-

FAMILY

Susan Frelich Appleton

ple, life-saving donations of bone marrow or kidneys to others, we have no laws compelling such altruism even if a person, including one’s child, would die without the donation. Indeed, it’s not a crime to refuse to perform far less invasive or demanding actions although another person’s death will result. Second, our laws have

absence of a “Good Samaritan” requirement and the principle of self-defense. Unlike the reasoning in Roe, however, these analyses assume that the pregnant woman’s refusal to make bodily sacrifices will result in the death of a person. In other words, the contested issue of personhood becomes irrelevant under this approach.

Apparently, the proponents of the Mississippi initiative believe that the criminalization of abortion follows seamlessly from an expanded understanding of per-

and bone marrow donations would become the new regime and the privilege of self-defense would be substantially narrowed for everyone. In addition, equal treatment would mean that any pregnant woman who agreed to an abortion would herself become a criminal, as an accomplice or conspirator, just like anyone else who agreed to a premeditated homicide.

Personhood has never been the critical issue. The critical issue has always been whether, as a society, we trust and respect women’s ability to make the difficult, even life-and-death, choices that we allow others to make when confronted with either another’s need for life-saving help or an unwanted attack on one’s body. Pregnant women, no less than other citizens, must be entitled to make such decisions.

Professor Susan Frelich Appleton is a nationally known expert in family law. Her research, scholarship, and writings address such legal issues as adoption, assisted reproduction, gender and parentage, surrogacy, and abortion rights.

Our laws and our legal tradition have never punished all behavior that results in the death of a person

always allowed causing the death of another in the exercise of self-defense, especially in the face of threats to one’s body.

Both before and after the Supreme Court decided Roe v. Wade, several observers pointed out the relevance to abortion of these two legal traditions – the

sonhood. They ignore, however, what it would mean to single out pregnant women for physical sacrifices and burdensome duties not required of any other class of citizens. Such exceptional treatment would raise serious equal protection questions. Perhaps in an equalizing effort, forced kidney

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The GOP: Trying to Hijack the White House

President Obama and national and GOP officials agree on one thing: The battle for the White House in 2012 will likely again come down to who wins the handful of election deciding battleground states. At the top of that list are Ohio, Florida, Wisconsin, North Carolina and Virginia. These are the states that have swung back and forth between the GOP and the Democrats for the past quarter century. Florida arguably and very dubiously put George W. Bush in the White House in 2000. Ohio did much to put Bush back in the White House in 2004. In 2008, both switched party hands, and along with the other three Wisconsin, North Carolina, and Virginia did much to put Obama in the White House. The GOP is bound and determined to make sure that doesn’t happen again in 2012. It has for the most part dumped the crude stuff to suppress votes that got a lot of media attention, a slew of legal challenges, and stirred public outrage. That included making sure there was an absence of polling places in minority neighborhoods, ballot and vote machine irregularities, using lists of foreclosed homes to challenge voter’s residences, rigid time lines for filing voter applications, the lack of information, misinformation or deliberate disinformation about voter registration forms and materials. Courts ruled that these blatant and naked efforts to torpedo minority voting were illegal, and Democratic Party officials were vigilant and aggressive in challenging these ploys.

But the GOP has gone back to its dirty campaign playbook and found a rash of new schemes to insure that as many voters that are



THE LAST WORD

Earl Ofari Hutchinson

most likely to vote Democrat and for Obama stay home on Election Day in the must win states. This time around they have powerful

the bandwagon and require iron-clad proof of identity. Florida and Ohio are among those states. North Carolina came within a hairs breath of passing a similarly restrictive voter ID bill. The bill was vetoed by the state’s Democratic governor. The cover excuse for this vote suppression scheme is that this is a bona fide measure to prevent voter fraud. This flies squarely in the face of several studies that debunk the

radically shortened the early voting time frame from 14 days to eight in Florida and from 35 days to 16 days in Ohio. Black voters accounted for nearly one out of five of the early return voters and nearly one of three of the Sunday voters. Latinos accounted for nearly one out of five of the Sunday voters. In North Carolina, more than half of blacks voted early.

Obama also got a huge election shot in the arm from students and other youthful voters. A number of states now prohibit the use of student IDs as voter eligible proof. In Wisconsin, students now must have a new student ID with a two year expiration date to be eligible. In Virginia, Governor Bob McDonnell’s Republican-controlled State Board of Elections proposed tightening rules that make it easier for election officials to disqualify absentee ballots for even the most trivial mistake such as a misspelling on a signature.

GOP officials have not scrapped the old tried and true methods of voter suppression. They include: district gerrymandering, tightening felon bans, skimping on the number of polling places and machines in mostly black and Latino neighborhoods, stationing police at the polls, and challenging citizenship papers where they can get away with it.

The GOP vote suppression schemes are aimed at one thing and one thing only and that’s to hold onto the White House or in the case of the 2012 election hijack the White House from Obama.

The GOP has gone back to its dirty campaign playbook and found a rash of new schemes to insure that as many voters that are most likely to vote Democrat and for Obama stay home on Election Day in the must win states

new weapons to try to pull off their voter scam with GOP governors and GOP dominated state legislatures in the driver’s seat in the states that Obama won in 2008. The GOP state officials have expanded the scheme that they unveiled a few years back and that is the rigid requirement that voters produce a government-issued identification, such as a driver’s license, a passport, or a state or military ID card as proof of their identity to be eligible to vote. Months before the 2008 election, the Supreme Court upheld Indiana’s rigid voter registration law that required such proof. Since then nearly twenty other states require either photo or non-photo IDs. Other states have jumped on

myth that tens of thousands of mostly poor, ineligible black and Latino voters flood the polls and illegally skewer the vote total toward the Democrats. Estimates put the number at more than 20 million possibly eligible voters that through lack of time, money, or access to documents were unable to get the required ID proof.

GOP officials in the two key election deciding states, Florida and Ohio, didn’t stop at requiring hard-nosed voter ID proof. Both states knocked out voting on Sunday before the election. In the absence of any employer paid time for voting on Tuesday, Sunday voting was a huge boost for black and Latino voters. Both states also

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