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Abortion advocates brace for Supreme Court shift

By PHILLIP ERICKSEN
pericksen@wacotrib.com

When Supreme Court Justice Anthony Kennedy announced he would retire at the end of the month, Cheryl Foster had a sinking feeling.

The thought of President Donald Trump nominating a second justice to the nation's high court and possibly setting the stage for an erosion of abortion rights was

among the worst moments of the Trump era for Foster, a local activist and abortion-rights advocate.

"It's a death blow to everything," she said. "It's horrible." Meanwhile, John Pisciotta, a longtime abortion opponent and director of the nonprofit Pro-Life Waco, was more optimistic.

"It was good news for me," Pisciotta said. "It certainly is." Kennedy's retirement sparked

a nationwide conversation on whether the 1973 landmark decision of Roe v. Wade, which declared abortion a fundamental right under the Constitution, would remain intact. Locally, abortion-rights advocates and opponents are preparing for a moment in which the Supreme Court could revisit the issue.

Patrick Flavin, an associate professor of political science at Baylor University, said he does

not envision Roe v. Wade being overturned.

"It's been a campaign talking point for Republicans for many years, but I think once it comes to actually putting a justice on the bench, it's unclear whether they would make that dramatic departure from precedent," Flavin said.

Trump is expected to name his nominee Monday. Once Trump's pick is confirmed by the Senate,

activist groups and state legislators hostile to abortion rights are likely to push either wholesale bans or stringent regulations on access, Flavin said. This would serve as a test of whether the Supreme Court would take up the case and how it would rule.

Had the Roe v. Wade decision not been made, abortion-policy discussions would happen at the

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state level, not in Washington D.C., Pisciotta said.

"We would be contending about abortion in the 50 states, not having a presidency, a Senate race, the future of the nation hanging on this erroneously-constructed decision with disastrous results," he said. "When this nomination goes forward, abortion is going to dominate that whole process. When we force decisions on people in America, when the nation is not really there to absorb that decision, it doesn't create unity. It exacerbates division."

Pisciotta's group has protested outside Planned Parenthood locations in Waco for years. In November, the \$4.3 million, 9,000-square-foot Audre Rapoport Planned Parenthood Health Center opened at 700 Highway 6, between Bosque Boulevard and Sanger Avenue. The building offers family planning services, abortion services, education advocacy and administrative space.

"The right to access abortion safely and legally in the United States is on the line, along with essential health care access millions of Americans depend on," Planned Parenthood of Greater Texas spokeswoman Sarah Wheat wrote in a statement.

It took a Supreme Court ruling in 2016 to strike down a Texas law that would have closed the majority of abortion clinics in the state. As in many cases that divide the court along conservative and liberal ideological lines, Kennedy delivered the swing vote.

"Women in Waco and surrounding rural counties saw firsthand what happens when politics limit access to health care," Wheat said. "Without the intervention of the U.S. Supreme Court in 2016, the controversial abortion restriction law passed by the Texas Legislature would have been allowed to eliminate



Staff photo — Rod Aydelotte, file

John Pisciotta, director of the nonprofit Pro-Life Waco, said he wants the U.S. Supreme Court to leave debates surrounding abortion to the states.

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access to safe, legal abortion in Waco."

Wheat said low-income women and women of color are disproportionately hurt by state restrictions that indirectly limit access to general health services Planned Parenthood offers.

"Planned Parenthood will continue to advocate for access to essential health care, including safe, legal abortion," she said.

A Gallup poll this year found

that an equal number of Americans consider themselves "pro-life" and "pro-choice." But 50 percent said it should be legal only under certain circumstances, 29 percent said it should be legal under any circumstances, and 18 percent said it should be illegal in all circumstances.

"The majority of Americans fall into the middle category," Flavin said. "When you offer more nuanced options, it doesn't break down as just 50 percent in one poll and 50 percent in another. ... Like any issue, you hear the most, of course, from those on the ends of the political spectrum, either pro-choice or pro-life. Those are the activists. Like any issue, abortion is no different in that respect."

Whether Trump's nominee follows strict constitutionalism is more important than how he or she views Roe v. Wade, said U.S. Rep. Bill Flores, a four-term Republican congressman and abortion-rights opponent.

"I know the left is trying to

make a big issue out of Roe v. Wade in order to gin up opposition to whoever the president nominates," Flores said. "I just don't think that's the big overarching issue today, especially when you compare it to what I consider to be the biggest issue, and that's finding a person who will strictly interpret the Constitution."

The Cook Political Report, a nonpartisan newsletter that analyzes elections and campaigns, rates Flores' congressional district, which includes McLennan County, Bryan-College Station, a section east of Interstate 45 and a sliver of northern Austin as "Solid Republican."

Flavin expects Democratic senators to ask the Supreme Court nominee about Roe v. Wade during upcoming hearings, and he expects the nominee to voice a respect for precedent but also leave a door open for potential review.

Pisciotta, who considers himself a Trump supporter, said he wants a Supreme Court focused on interpreting law rather than making law.

"I approach this, in part, as someone who is a pro-life activist and someone who believes in the principles, in the document, in the spirit of the founding of America, and that spirit was not to have a federal government forcing things broadly upon a nation who does not have agreement," Pisciotta said. "So their wisdom was great. The way you have as much unity and respect and due process as possible is to let decisions be made at the lowest possible level and not one size fits all. Things get hostile when we don't do that."

Foster, citing comments made by the prominent legal analyst and writer Jeffrey Toobin, said abortion will likely be illegal in as many as 20 states within 18 months.

"What makes me so frustrated, and not only hopeless but helpless, is that elections matter, and we knew the Supreme Court was up for grabs during the election," she said. "And they gave it away anyway."