

# GREG KATSAS ON REPRODUCTIVE RIGHTS

## Highlights:

- Greg Katsas opposed reproductive rights.
  - During his time in the Bush administration, Katsas litigated several cases that sought to limit abortion rights.
    - Katsas assisted in the cases *Gonzales v. Carhart* and *Planned Parenthood v. Gonzales*, which successfully defended a second-trimester abortion ban.
    - Katsas defended the “Mexico City policy,” which restricted aid to foreign organizations that provided abortion access.
    - In multiple cases, Katsas sought to restrict health care reimbursements for abortion services.
    - Katsas was responsible for federal rules that allowed employers to cease covering contraceptives.
  - In a Federalist Society podcast, Katsas said that the right to an abortion was “made-up.”

## Katsas Opposed Reproductive Rights

### **DURING HIS TIME IN THE BUSH ADMINISTRATION, KATSAS LITIGATED SEVERAL CASES THAT SOUGHT TO LIMIT ABORTION RIGHTS**

#### **Katsas Assisted In The Cases *Gonzales v. Carhart* and *Planned Parenthood v. Gonzales*, Which Successfully Defended A Second-Trimester Abortion Ban**

**Katsas Tried To Limit The Right To An Abortion In *Planned Parenthood v. Gonzales* And *Carhart v. Gonzales*.** According to the Leadership Conference On Civil And Human Rights, “Representing the Bush administration, Mr. Katsas also sought to limit abortion rights for women in *Planned Parenthood v. Gonzales* and *Carhart v. Gonzales*.” [Leadership Conference on Civil and Human Rights, [11/7/17](#)]

**Katsas Was One Of The Attorneys Providing The Brief For *Gonzales v. Planned Parenthood*.** According to the Office of the Solicitor General, “No. 05-380 In the Supreme Court of the United States ALBERTO R. GONZALES, ATTORNEY GENERAL, PETITIONER v. LEROY CARHART, ET AL. [...] BRIEF FOR THE PETITIONER [...] GREGORY G. KATSAS - Deputy Assistant Attorney General.” [Office of the Solicitor General, [10/21/14](#)]

**In *Gonzales v. Carhart*, Katsas Argued To Uphold States’ Second-Trimester Abortion Bans.** According to Justia, “The majority opinion viewed the challenge narrowly as attacking the law on a facial rather than as-applied basis. While it found that it was not facially unconstitutional, it did not reject the possibility of an as-applied challenge. Kennedy stated that the undue burden standard in *Planned Parenthood v. Casey* required courts to place a stronger emphasis on the state's interest in the life of the fetus than the lower courts had shown in reviewing this case. Since the medical community did not agree on the health risks that the partial-birth abortion process might be needed to resolve, partial-birth abortions could be banned without a health exception until greater clarity was found. Acknowledging that the Court had invalidated a different statute banning partial-birth abortions in *Stenberg v. Gonzales*, the Court stated that this statute had clearer language and thus did not violate due process. The majority opinion did specifically state that it was valid under the Commerce Clause.” [Justia, accessed [5/15/24](#)]

#### **Katsas Defended The “Mexico City Policy,” Which Restricted Aid To Foreign Organizations That Provided Abortion Access**

**Katsas Defended The “Mexico City Policy,” Which Prevented Foreign Organizations Received U.S. Funding From Providing Abortions.** According to the Alliance For Justice, “First, Katsas defended the ‘Mexico City Policy,’ also known as the ‘global gag rule,’ by which the U.S. government required foreign organizations that received federal funds to neither promote nor perform abortions.” [Alliance For Justice, Accessed [5/16/24](#)]

#### **In Multiple Cases, Katsas Sought To Restrict Health Care Reimbursements For Abortion Services**

**Katsas Served As Counsel In A Case That Sought To Deny A Woman Health Care Reimbursement For An Abortion Where The Fetus Was Non-Viable.** According to the Alliance For Justice, “Katsas also served as counsel in *Britell v. United States*, 372 F.3d 1370 (Fed. Cir. 2004), a case where a woman sought reimbursement from her health insurer for the cost of an abortion of an anencephalic fetus but was denied because a statute and corresponding regulations prevented funds available to the Department of Defense from being used to perform an abortion, except where the life of the mother would be endangered. Anencephaly is a condition where a fetus is missing a major portion of its brain, and the only prognosis for the condition is death.” [Alliance For Justice, Accessed [5/16/24](#)]

**In Another Case, Katsas Represented The Department Of Defense After It Denied A Military Spouse Reimbursement For Her Abortion Expenses.** According to the Alliance For Justice, “In a related case, Katsas represented the government when the Department of Defense was sued by a military spouse who sought health coverage for an abortion for her anencephalic pregnancy. Again, there was no chance that the fetus would become a viable and healthy child, but the government sought to deny the funding of the procedure. This case, *Doe v. United States*, 372 F.3d 1308 (Fed. Cir. 2004), which appeared before the United States Court of Appeals for the Federal Circuit, was transferred to the Ninth Circuit, where the court reversed the decision of the district court and denied the reimbursement.” [Alliance For Justice, Accessed [5/16/24](#)]

### **Katsas Was Responsible For Federal Rules That Allowed Employers To Cease Covering Contraceptives**

**Katsas Was So Involved In Creating Federal Agency Rules To Allow Employers To Stop Providing Contraceptives That He Agreed To Recuse Himself From Cases Challenging Such Rules.** According to the Leadership Conference on Civil and Human Rights, “He was so involved in the recent creation of federal agency interim rules allowing employers to stop providing women employees with contraceptive health insurance coverage that he agreed to recuse himself in any litigation that arose from challenges to these rules.” [Leadership Conference on Civil and Human Rights, [11/7/17](#)]

### **IN A FEDERALIST SOCIETY PODCAST, KATSAS SAID THAT THE RIGHT TO AN ABORTION WAS “MADE-UP”**

**In A Federalist Society Podcast, Katsas Said That The Right Of An Abortion Had “All These Made-Up Protections” And “Isn’t In The Constitution.”** According to the Questions for the Record from Katsas’ nomination to the U.S. Court of Appeals, “In a June 2016 Federalist Society podcast, you stated: ‘the right of abortion, which isn’t in the Constitution, which has all these made-up protections.’” [Questions for the Record – Katsas Nomination Hearing For The U.S. Court Of Appeals, [10/24/17](#)]