

# **THE COLORADO SUPREME COURT: THE JURY IS STILL OUT**

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Tracking decisions in the Colorado Supreme Court over the years on “life” issues proved to be a more daunting task than at first anticipated. Quite frankly, there have not been that many cases decided by our Supreme Court involving “life” issues. In addition, it is not easy to attribute a particular “political” bent to the Supreme Court. Though a majority of the members of the court were appointed by Democratic Governors, because the court infrequently overturns a legislative enactment, the court cannot truly be considered an “activist” court.

## **I. LIFE ISSUES**

### **Abortion**

Although there have not been many cases in Colorado directly related to the actual providing of abortions, there have been a number of cases dealing with other issues intrinsically related to the abortion practice, such as the use of public funds for abortions, restrictions on abortion protestors, restrictions on the practice of midwifery, and related decisions in ballot initiative cases.

By way of background, Colorado voters in the 1980s twice approved language for the Colorado constitution barring any use, direct or indirect, of public money to fund abortions. Specifically, in 1984, Colorado voters approved Article V, Section 50, to the Colorado constitution, which states,

No public funds shall be used by the State of Colorado, its agencies or political subdivisions to pay or otherwise reimburse, either directly or indirectly, any person,

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agency or facility for the performance of any induced abortion, provided however, that the General Assembly, by specific bill, may authorize and appropriate funds to be used for those medical services necessary to prevent the death of either a pregnant woman or her unborn child under circumstances where every reasonable effort is made to preserve the life of each.<sup>2</sup>

A subsequent initiative to repeal this provision was rejected by voters.

For several years during the administration of Governor Roy Romer (D), the Colorado Department of Public Health and Environment ignored this plain restriction and provided funds to Planned Parenthood of the Rocky Mountains, so long as it pledged to use such funds solely for non-abortion family planning services. In December 2001, Jane E. Norton, the Executive Director of the Colorado Department of Public Health and Environment and a member of the cabinet of Governor Bill Owens (R), determined that, because Planned Parenthood of the Rocky Mountains operated its abortion services and its family planning services side-by-side and in the same facilities with the same personnel, these provisions of Colorado's constitution were being violated by the provision of Colorado funds to Planned Parenthood. Despite requests to arrange its business affairs so as to abide by these constitutional provisions, Planned Parenthood of the Rocky Mountains declined to set up separate free standing abortion clinics and family planning clinics or to otherwise take actions that would assure no state funds were, in fact, directly or indirectly being used to support induced abortions.

During the November 2006 election cycle, now-Governor Bill Ritter (D) pledged he would restore funding to Planned Parenthood of the Rocky Mountains. It is anticipated, should he do so as announced, a lawsuit will be filed seeking to block re-funding of Planned Parenthood of the Rocky Mountains. In many respects, however, this announcement by Governor Bill Ritter (D) gives insight to the philosophical and values orientation of likely Ritter appointees to the Colorado Supreme Court.

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<sup>2</sup> On February 6, 1985, the Colorado Attorney General issued an opinion to the effect that coverage for induced abortions may not, consistent with this constitutional amendment, be included in the insurance provided by the state to its employees. Colorado Department of Law, <http://www.ago.state.co.us/agopinions/ago8502.cfm> (last visited June 29, 2007).

With regard to specific cases, in 1979, the Colorado Supreme Court held that taxpayers had standing to litigate issues of whether expenditures of public funds to pay the costs of abortion services pursuant to the Colorado Medical Assistance Act<sup>3</sup> violated the constitutional article.<sup>4</sup> This decision paved the way for the Colorado Court of Appeals to affirm the trial court's granting of the Department of Social Services' motion for summary judgment.<sup>5</sup> The court held the department's expenditure of state funds to pay for indigent persons' medical abortion procedures did not violate the enabling statutes when an abortion was considered a "basic medical service" under the Colorado Medical Assistance Act.<sup>6</sup> It seems clear this decision would be different today, given the constitutional enactments described above. It also seems clear there will be an opportunity to find this out in the near future.

In 1988, the Colorado Supreme Court decided a case concerning the constitutionality of the use of public funds for induced abortions. The Court held, notwithstanding the constitutional provisions described above, portions of the statute permitting public funds to be used to pay for abortions necessary to prevent the death of a pregnant woman, when every reasonable effort had been made to preserve the lives of the woman and the unborn child, were constitutional.<sup>7</sup>

However, the Colorado Supreme Court found unconstitutional the portion of a statute permitting the use of public funding for abortions when the unborn child suffered from a lethal medical condition that would result in the impending death of the child during the term of pregnancy or at birth, because in these circumstances, an abortion would be unnecessary to save the mother's life.<sup>8</sup> This portion of the statute violated the amendment to the Colorado Constitution discussed above providing no state funds were to be used to pay, either directly or indirectly, for induced abortions, with the limited exception that public funds could be expended

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<sup>3</sup> Colo.Rev. Stat.. § 26-4-101 et seq. (1973).

<sup>4</sup> *Dodge v. Dep't. of Soc. Servs.*, 600 P.2d 70 (Colo. 1979).

<sup>5</sup> *Dodge v. Dep't. of Soc. Servs.*, 657 P.2d 969 (Colo. App. 1982).

<sup>6</sup> Colo.Rev. Stat. §§ 26-4-101, et seq. (1973).

<sup>7</sup> *Urbish v. Lamm*, 761 P.2d 756 (Colo. 1988); Colo.Rev. Stat. §§ 26-4-105 and 26-15-104.5 (1973), and Rule 8.733, 10 Colo.Code. Regs. 2505-10 (1985).

<sup>8</sup> *Id.*

to prevent the death of either a pregnant woman or her unborn child under circumstances where every reasonable effort was made to preserve the life of each.<sup>9</sup>

Regarding abortion speech, the Colorado Supreme Court has upheld a law placing restrictions on protestors near abortion clinics. In 1993, the Colorado Legislature enacted a “bubble” law, requiring protestors to stay at least eight feet from anyone entering or leaving an abortion clinic, as long as the clinic visitor was within 100 feet of the entrance. Three anti-abortion activists challenged the law, claiming it violated their free-speech rights. The trial court upheld the statute. Plaintiffs appealed to the Colorado Court of Appeals, which upheld the trial court’s determination. The Colorado Supreme Court, in 1996, refused to review the decision. Current Colorado State Supreme Court Chief Justice Mary J. Mullarkey is the only current justice that was on that court.

The United States Supreme Court (USSC) granted *certiorari* and, in *Hill v. Colorado*<sup>10</sup>, reversed the Court of Appeals, remanding back to the Court of Appeals to re-examine in light of *Schenck v. Pro-Choice Network of Western New York*<sup>11</sup>. The Court of Appeals again affirmed the trial court and, thus, upheld the statute. Given a second opportunity, the Colorado Supreme Court granted *certiorari*. In February 1999, the Colorado Supreme Court affirmed the lower court’s ruling and determined the law places constitutionally reasonable restrictions on the time, place, and manner of speech by anti-abortion demonstrators and, thus, did not violate the First Amendment.<sup>12</sup> The case was again granted *certiorari* to the USSC where, by a vote of 6-3, the statute was upheld as constitutional.<sup>13</sup>

The Colorado Supreme Court has also held certain restrictions on the practice of midwifery are permissible. In *People v. Rosburg*,<sup>14</sup> Rosberg and Parker appealed a trial court order enjoining them from practicing midwifery without a license, as prohibited by Colorado Law. Chief Justice Mullarkey held a statute requiring the licensing of midwives did not violate

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<sup>9</sup> *Id.*

<sup>10</sup> 519 U.S. 1145 (1997).

<sup>11</sup> 519 U.S. 357 (1997).

<sup>12</sup> *Hill v. Thomas*, 973 P.2d 1246 (Colo. 1999).

<sup>13</sup> *Hill v. Colorado*, 530 U.S. 703 (2000).

<sup>14</sup> 805 P.2d 432 (Colo. 1991).

the midwives' equal protection right because the prohibition of lay midwifery bears a rational relationship to the state's legitimate interest in protecting the health and safety of a pregnant woman and her unborn child.

On a number of occasions, the Colorado Supreme Court has weighed in on citizen-sponsored, abortion-related ballot initiatives. In *Steadman v. Hindman*,<sup>15</sup> the court held the initiative entitled "Woman's Right-To-Know Act" did not violate the single-subject requirement for initiatives. This single-subject requirement is meant to prevent disconnected and incongruous measures from being joined together in the same initiative. This single-subject requirement is quite strictly enforced by the court in the case of citizen-sponsored initiatives but less so in the case of legislative referred measures, presumably on the grounds the Colorado General Assembly knows what it is doing and is subject to greater public scrutiny than "average" citizens. In this case, the initiative required a woman's voluntary and informed consent before a physician could perform an abortion. It would have also required the physician to gather and report certain personal information. The court did not opine on the subject of the initiative but held the physician reporting and data gathering requirements of the initiative did not violate the single-subject requirement.

In *Proposed Initiative on Parental Notification of Abortions for Minors* an elector challenged the title, ballot title, and submission clause for a proposed initiative that required notice be given to an unemancipated (*i.e.*, generally, a person under the age of 18) child's parents or guardians prior to performance of procured abortion. Again, the court did not opine on the substance or policy of the initiative, but held the proposed initiative's title, ballot title and submission clause did not pass muster.

### **Protection of the Unborn from Criminal Violence**

In a quasi-criminal proceeding, the Colorado Supreme Court has refused to weigh in on the issue of whether an unborn child constitutes a child for purposes of child dependency or neglect proceedings. A Colorado county social services department, in *People In the Interest of*

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<sup>15</sup> 992 P.2d 27 (Colo. 2000). (Also known as *In re Title, Ballot Title and Submission Clause, Summary for 1999-2000 No. 200A*)

*H., an unborn Child*<sup>16</sup>, filed a petition of delinquency and neglect alleging a mother's methamphetamine use established dependency and neglect of an unborn child. The Colorado Court of Appeals ruled unborn children do not constitute children for the purposes of dependency and neglect proceedings. The Colorado Supreme Court declined to review the case.

No other decisions by the Colorado Supreme Court on the protection of the unborn from criminal violence have been rendered.

In the realm of civil matters, the Colorado Supreme Court has decided a case concerning the wrongful death of a child shortly after birth, as well as a case where doctors' negligent misrepresentation led to a wrongful birth. In one instance, the Court protected only the rights of the parents, but in the more recent case the Court protected the rights of the child despite the fact that the harmful actions or neglect took place long before birth.

A key case in this area is *Lininger v. Eisenbaum*.<sup>17</sup> The Liningers gave birth to a blind child. They consulted with their doctors as to whether the blindness was hereditary and were informed it was not. Based upon this information, the Liningers had another child, who also was born blind. It was then determined the cause of the blindness in both children was, in fact, a result a hereditary defect. The Liningers sued the doctors they had originally consulted for "wrongful birth." The trial court judgment dismissing these claims was affirmed by the Colorado Court of Appeals. The Supreme Court later reversed this judgment and indicated the Liningers had a viable claim for "wrongful birth" based upon negligent misrepresentation. Chief Justice Mullarkey concurred with the majority in its reversal but dissented in part because the court only reinstated the parents' claims and did not reinstate the child's claims.

The Colorado Supreme Court stated, in 1995, that the Colorado Workers' Compensation Act is not the exclusive remedy when prenatal injuries cause a child to die after birth.<sup>18</sup> In this case, Ms. Keefe worked as an assistant manager at Pizza Hut when she became pregnant. After a few months, Ms. Keefe developed complications with the pregnancy. Her doctor restricted the hours she could work and the variety of tasks she could perform at work. Ms. Keefe's Pizza Hut

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<sup>16</sup> 74 P.3d 494 (Colo. App. 2003).

<sup>17</sup> 764 P.2d 1202 (Colo. 1988).

<sup>18</sup> *Pizza Hut of Am., Inc. v. Keefe*, 900 P.2d 97 (Colo. 1995).

supervisors required Ms. Keefe to work beyond the limits recommended by her doctors. Ms. Keefe gave birth to the child prematurely; the child died ten days later. Ms. Keefe sued her employer and supervisors for wrongful death.

The trial court dismissed the claim based upon the exclusivity provisions of the Workers' Compensation Act. The Colorado Court of Appeals reversed; the Supreme Court affirmed the Court of Appeals, stating, "Because the child died after birth, leaving the parents with a wrongful death claim separate and distinct from any claim a parent may have for personal injuries, we affirm . . ." <sup>19</sup>. The court held the claims were separate and distinct, because a child, a non-employee, who suffers prenatal injuries due to negligence on the part of the mother's employer, was not limited to remedies available under the Worker's Compensation Act.

No other decisions by the Colorado Supreme Court on the protection of the unborn in civil matters have been rendered.

### **Assisted Suicide**

Colorado law provides that a person who intentionally causes or aids another person to commit suicide commits the crime of manslaughter, a class 4 felony. <sup>20</sup> The Supreme Court has twice, in recent years, failed to grant *certiorari* in assisted suicide-related cases.

In *People v. Gordon* <sup>21</sup>, a criminal prosecution, the defendant testified his girlfriend shot herself in the head and, "in order to put her out of her misery," he shot her in the head three more times. The Court of Appeals ruled the trial court was not in error when it failed to instruct the jury on the lesser offense of manslaughter by aiding suicide. The Court of Appeals reasoned the manslaughter by "aiding" suicide statute is available to those who merely provide the means to commit suicide, not to those who actively perform the act resulting in death.

Another case is *Sanderson v. People* <sup>22</sup>, wherein Sanderson sought declaratory judgment that the Free Exercise Clause of the First Amendment would prevent a manslaughter conviction of his wife and the physician administering euthanasia, if the wife and physician assisted in his

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<sup>19</sup> *Id.* at 100.

<sup>20</sup> Colo.Rev. Stat. § 18-3-104(1)(b) (1973).

<sup>21</sup> 32 P.3d 575 (Colo. App. 2001).

<sup>22</sup> 12 P.3d 851 (Colo. App. 2000).

suicide. Sanderson, an 80-year-old man, sought to provide his wife with a durable medical power of attorney, authorizing her to end his life by euthanasia if two physicians agreed his medical condition was hopeless. The court was not persuaded by Sanderson's argument that Colorado's assisted suicide law interfered with his religious beliefs and, therefore, violated the Free Exercise Clause. The Court of Appeals concluded Colorado's assisted suicide law is a valid, religiously-neutral, and generally applicable criminal statute prohibiting conduct the state is free to regulate. Therefore, the Free Exercise Clause would not prevent the state from prosecuting a person who aids another person in the commission of suicide.<sup>23</sup>

### **Healthcare Rights of Conscience**

The Colorado Supreme Court has not issued any rulings on issues relating to healthcare rights of conscience.

### **Cloning**

The Colorado Supreme Court has not issued any rulings on issues relating to cloning.

### **Destructive Embryo Research**

The Colorado Supreme Court has not issued any rulings on issues relating to destructive embryo research.

Though the Colorado Supreme Court has yet to decide cases in many of these current "hot-button" issues involving life, the court has demonstrated a relatively strong stance against assisted suicide, has restricted, though somewhat narrowly, the ability of abortion clinics to use state funds for abortion procedures, and has provided parents and children with legal avenues to pursue claims for harms done prior to birth. In addition, the court has permitted restrictions placed on abortion protestors as well as those practicing midwifery.

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<sup>23</sup> *Id.* at 854.

## II. JUDICIAL RESTRAINT

Although it is difficult to specify with certainty, it is also difficult to characterize the Colorado Supreme Court as an activist court, even though many would view the majority of the court as being on the liberal side of the philosophical spectrum. In its past decisions, the Colorado Supreme Court has been hesitant to overturn legislation, and even when a portion of a statute has been found to be unconstitutional, the Colorado Supreme Court has “split the baby,” striking only the unconstitutional language.<sup>24</sup>

However, the Colorado Supreme Court changed the course taken in *Lininger*, in which the Court allowed the parents’ claims be reinstated but did not permit the child’s claims to be stated.<sup>25</sup> Chief Justice Mullarkey’s opinion, in her *Lininger* dissent, that a child’s claims are separate and distinct from the parents’, became the majority view in *Pizza Hut of America, Inc. v. Keefe*.<sup>26</sup>

## III. THE COURT

Colorado’s Supreme Court is the state’s court of last resort. Its decisions are binding on all other Colorado state courts.<sup>27</sup> The Colorado Supreme Court is composed of seven justices, each of whom serves a 10-year term. The chief justice is selected by the members of the Supreme Court and serves at the pleasure of a majority of the justices. The chief justice appoints

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<sup>24</sup> *Urbish v. Lamm*, 761 P.2d 756 (Colo. 1988); Colo.Rev.Stat. § 26-4-105, 26-15-104.5, and Rule 8.733, 10 Colo.Code.Regs. 2505-10 (1985).

<sup>25</sup> *Lininger v. Eisenbaum*, 764 P.2d 1202 (Colo. 1988).

<sup>26</sup> 900 P.2d 97 (Colo. 1995).

<sup>27</sup> Requests to review decisions of the Colorado Court of Appeals constitute a majority of the Supreme Court’s filings. The Supreme Court also has direct appellate jurisdiction over cases in which a statute has been held to be unconstitutional, cases involving decisions of the Public Utilities Commission, writs of habeas corpus, cases involving adjudication of water rights, summary proceedings initiated under the state’s Election Code, and prosecutorial appeals concerning search and seizure questions in pending criminal proceedings. Each year, approximately 1,400 new cases are filed in the Colorado Supreme Court. Approximately 1,200 of these cases are either petitions for certiorari, asking the Court to review decisions of the court of appeals, or original proceedings, asking the Court to intervene in cases pending in the trial courts. The Supreme Court hears oral arguments in most of the cases it decides. All seven justices decide each case unless a justice is disqualified in a particular case. The Supreme Court writes about 100 opinions per year. Three-fifths of these opinions are civil cases. The remainder are criminal cases.

the chief judge of the Colorado Court of Appeals and the Chief Judge of each of the state's 22 judicial districts.

In 1966, the people of Colorado passed a constitutional amendment which provides that state judges are appointed rather than elected. When a judicial vacancy occurs, a nominating commission, established pursuant to this constitutional amendment and made up of lawyer and non-lawyer citizens, seeks and interviews applicants and recommends individuals to the Governor for consideration and appointment.<sup>28</sup> In the case of a vacancy on the Supreme Court, the nominating commission must submit three nominees to the Governor. The justice appointed is selected by the governor from this list of nominees. If the Governor does not select one of the nominees from this list within 15 days, then the chief justice of the Colorado Supreme Court appoints one of those individuals to fill the specific vacancy. The justice chosen fills an initial term of two years and must stand for retention at the next general election. If retained by the voters after serving an initial two year term, justices then serve a ten year term. All Colorado judges must retire by age 72.

The Colorado constitution provides that each justice holds office for a provisional term of two years and then until the second Tuesday in January following the next general election. Each justice who wishes to serve an additional ten-year term must declare his/her intention to do so and stand for retention at the general election next prior to the expiration of their term. Pursuant to the Colorado Constitution, Colorado Supreme Court justices must retire at age 72.<sup>29</sup>

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<sup>28</sup> The Supreme Court Nominating Commission, established by the Colorado constitution, is chaired by the chief justice of the Colorado Supreme Court, who acts as chairman and an *ex officio* member of the commission but who has no vote. The voting members of the Supreme Court Nominating Commission are as follows: one citizen not admitted to practice law in Colorado and one citizen admitted to practice law in Colorado from each congressional district in the state, plus one additional citizen not admitted to practice law in Colorado. Members admitted to practice law in Colorado are appointed by majority action of the governor, the attorney general, and the chief justice. Citizen members are appointed by the governor. No more than one-half of the commission members, excluding the, chief justice, plus one, may be members of the same political party. No voting member may concurrently hold an elective and salaried federal or state public office or any elective political party office. The members of the Supreme Court Nominating Commission serve staggered, six year terms until December 31<sup>st</sup> of the sixth year following such member's appointment. Most of the current members of the Supreme Court Nominating Commission were, therefore, appointed by Governor Owens.

<sup>29</sup> Colo. Const. art. VI, § 23.

The current court is made up of five members appointed by former Governor Roy Romer (D) and two members appointed by former Governor Bill Owens (R). The Owens appointees are decidedly more conservative than are the Romer appointees.<sup>30</sup>

Once appointed to the bench, members of the Colorado Supreme Court do not appear to speak in public very often, whether on issues related to matters before the court or on matters of public interest. Likewise, members of the court are infrequently involved in civic activities and are never involved in political activities.

**Biographical information of the current members of the Colorado Supreme Court**

<b>Member</b>	<b>Appointed by/ Year</b>	<b>Term Expires</b>	<b>Miscellaneous</b>
Mary J. Mullarkey, Chief Justice	Romer/ 1987.	2011	- Biographical information: J.D. Harvard Law School; B.A. St. Norbert College; practiced law in Denver (1985–1987) and held the following positions: Legal Advisor to the Governor (1982–1985); First Assistant Attorney General and then Solicitor General in the Colorado Department of Law (1975–1982); Assistant Regional Attorney for the Equal Employment Opportunity Commission (1973–1975); and Attorney-Advisor at the Civil Rights Branch of the Department of the Interior in Washington, D.C. (1970 –1973). - Professional affiliations: Received the 2002 Mary Lathrop award from the Colorado Women’s Bar Association and

<sup>30</sup> Recent nominees have been well-qualified individuals with great integrity and intellect who, it is believed, will faithfully interpret the Colorado Constitution. That, quite simply, all Coloradans can expect, particularly as they have watched bizarre judicial rulings over the last 30 years, many from the USSC, which have held, among other things, that local governments can seize low income people’s homes and turn them over to wealthy developers; that a courthouse must tear down the Ten Commandments from its walls; that the laws of foreign nations, not our own United States Constitution form the basis of USSC decisions; that the words “under God” must be removed from our pledge of allegiance; and that “virtual” child pornography on the internet must be protected on some twisted first amendment logic.

			<p>the 2003 Judicial Excellence award from the Denver Bar Association.</p> <ul style="list-style-type: none"> <li>- Judicial evaluations/reviews: Attorneys and court personnel rated Justice Mullarkey highly overall: 79% voted to retain, 17% voted not to retain and 4% had no opinion; 92% of trial court judges voted to retain, 2% voted not to retain.</li> <li>- Other: Named chief justice in August 1998; has revised the Judicial Code of Conduct to allow judges to get more involved in their communities; Married to the Rev. Tom Korson who is a unitarian-universalist community minister.</li> </ul>
Gregory J. Hobbs, Jr.	Romer/ 1996.	2009	<ul style="list-style-type: none"> <li>- Biographical information: J.D. University of California at Berkeley; B.A. University of Notre Dame; Practiced law with an emphasis on water, environment and transportation 1971– 1996; Was a law clerk for Judge William E. Doyle of the United States Tenth Circuit Court; Served as Vice Chair of the Colorado Air Quality Commission and on many other air, water and transportation committees.</li> <li>- Political /Professional Affiliations: Has been active in the Boy Scouts of America and the Denver Area Eating Disorders Family Support Group; Member of the American, Colorado and Denver Bar Associations, American Bar Foundation, Colorado Bar Foundation; Admitted to practice in Colorado and California (inactive); Former Adjunct Professor, Environmental Law, Master's Program in Environmental Policy and Management, University of Denver</li> <li>- Judicial evaluations/reviews: Attorney questionnaires received by the State Commission on Judicial Performance rate Justice Hobbs highly overall; he received high marks in equal treatment of</li> </ul>

			<p>all persons, sense of fairness and attentiveness at oral arguments; 91.6% of the attorneys voted to retain and 8.4% voted not to retain.</p> <p>- Other: Prior to attending law school, he taught sixth grade in New York City and served in the Peace Corps in South America.</p>
Alex J. Martinez	Romer/ 1996.	2011	<p>- Biographical information: J.D. University of Colorado School of Law; B.A. University of Colorado; District Court Judge for the 10<sup>th</sup> Judicial District, Pueblo County 1988–1996, and a County Court Judge in Pueblo County 1983–1988; Served as a Deputy State Public Defender in Pueblo 1977-1983.</p> <p>- Professional/political affiliations: Has served as the Chair of the Public Access to Electronic Information Committee (computerizing the courts), the Criminal Rules Committee, Criminal Jury Instruction Committee and as Chair of Child Welfare Appeals; former vice president of the Colorado Bar Association and served on the Executive Council of the Pueblo Bar Association; currently serves on the University of Colorado Law School Alumni Board of Directors and the Servicios De La Raza Board of Directors.</p> <p>- Judicial evaluations/reviews: Attorneys and court personnel rated Justice Martinez very highly: 82% voted to retain, 7% voted not to retain and 11% had no opinion; 89% of trial court judges voted to retain, 2% voted not to retain and 9% had no opinion.</p>
Michael Lee Bender	Romer/ 1997.	2011	<p>- Biographical information: J.D. University of Colorado School of Law, 1967; Institute of Criminal Law and Procedure- Georgetown University Law Center, 1967; B.A. Dartmouth College,</p>

		<p>1964; Practiced law in Denver, Colorado 1980–1996 and in Los Angeles, California 1979–1980; served as a Public Defender in Denver for five years and as an attorney for the Equal Employment Opportunity Commission for two years.</p> <p>- Professional/Political affiliations: Has served on numerous boards and committees, including the Board of Governors of the Colorado Bar Association for two terms and on its Ethics Committee for eight years; Director of the Colorado Trial Lawyers Association and currently serves on the Law Alumni Board of the University of Colorado School of Law and on the Criminal Justice Standards Committee of the American Bar Association; Liaison member for Attorney Regulations Advisory Committee, Colorado Public Education Committee, Co-Chair of the Civil Justice Committee, Chair of the District Court and Magistrate Need, Member of the Office of Dispute Resolution Advisory Committee, Domestic Relations Reform Committee of the Colorado Supreme Court, and a member of the Governor’s Task Force on Civil Justice Reform.</p> <p>- Judicial evaluations/reviews: Attorneys and court personnel rated Justice Bender highly: 80% voted to retain, 11% voted not to retain and 9% had no opinion; 88% of trial court judges voted to retain , 4% voted not to retain and 8% had no opinion.</p> <p>- Other: Received both the Robert C. Heeney Memorial Award for Outstanding Service from the National Association of Criminal Defense Lawyers and the Fireman Award given by the Colorado State Public Defender’s</p>
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Nancy E. Rice	Romer/ 1998.	2011	<p>- Biographical information: J.D. University of Utah College of Law 1975; B.A. Tufts University 1972; Served as clerk to Hon. Fred Winner and was a Denver District Court Judge 1987–1998; an Assistant U.S. Attorney 1977–1987; Deputy Chief of the Civil Division of the U.S. Attorney’s Office 1985–1987; and a Deputy State Public Defender, Appellate Division 1976–1977.</p> <p>- Professional/Political affiliations: A member of the Governor’s Task Force on Civil Justice Reform; Teaches for the National Institute for Trial Advocacy (NITA); Adjunct Professor at the University of Denver and speaks to various groups in the community including lawyers, law students and high school students.</p> <p>- Judicial evaluations/reviews: Attorneys and court personnel rated Justice Rice very highly: 82% voted to retain, 6% voted not to retain and 12% had no opinion; 92% of trial court judges voted to retain, zero percent voted not to retain and eight percent (8%) had no opinion.</p> <p>- Other: Has been an Adjunct Professor of Law in trial advocacy at the University of Colorado School of Law; Justice Rice brings important trial court experience to the bench and serves as a liaison with trial court judges.</p>
Nathan B. Coats	Owens/ 2000.	2013	<p>- Biographical information: J.D. University of Colorado School of Law 1975; B.A. University of Colorado 1971; Private practice 1977-1978; Served in the Appellate Section of the Colorado Attorney General’s Office 1978–1986; and was Chief Appellate District Attorney for the Second Judicial District 1986-2000.</p>

			<p>- Professional/political affiliations: Has served on many Supreme Court committees, including the Criminal Rules, Appellate Rules, Rules of Evidence and Jury Reform committees.</p> <p>- Judicial evaluations/reviews: Received high marks from attorneys and trial judges in the categories of courtesy and treating parties equally regardless of race, sex or economic status; Support for retention of Justice Coats was solid among both judges and attorneys, with 84% of judges and 87% of attorneys favoring retention.</p>
Allison H. Eid	Owens/ 2006.	2009	<p>- Biographical information: J.D. University of Chicago Law School; B.A. Stanford University; Was Solicitor General of the State of Colorado, serving as the Chief Legal Officer to the Colorado Attorney General and representing Colorado officials and agencies in state and federal court; was also a tenured Associate Professor of Law at the University of Colorado School of Law, teaching Constitution Law, Legislation and Torts; Practiced commercial and appellate litigation with the Denver office of the national law firm of Arnold &amp; Porter; clerked for the Honorable Clarence Thomas, Associate Justice of the United States Supreme Court, and for Judge Jerry E. Smith of the United States Court of Appeals for the Fifth Circuit in Houston, Texas.</p> <p>- Professional/political affiliations: In 2002, President George W. Bush appointed her to serve on the Permanent Committee for the Oliver Wendell Holmes Devise, established by Congress in 1955 to prepare the history of the United States Supreme Court; a member of the American Law Institute and</p>

			<p>studied comparative law in London as a Temple Bar Scholar.</p> <ul style="list-style-type: none"> <li>- Judicial evaluations/reviews: None to date.</li> <li>- Other: Served as Special Assistant and Speechwriter to U.S. Secretary of Education William J. Bennett; At the University of Chicago Law School she was Articles Editor of <i>The University of Chicago Law Review</i> and was elected to the Order of the Coif.</li> </ul>
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## CONCLUSION

It is difficult to predict how the Court will rule on future pro-life cases. Although the Court has certainly been drifting to the left as a result of the past five judicial appointments by a Democratic Governor, it has also shown considerable restraint when it comes to overturning the state legislature. Consequently, the legislature—and thus the citizens of Colorado—plays a key role in ensuring that the current favorable laws remain the law of the land.