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Attorney General Steve Marshall Files Brief Asking U.S. Supreme Court to Hear Alabama Dismemberment Abortion Case

(MONTGOMERY) – Attorney General Steve Marshall has asked the U.S. Supreme Court to hear a case challenging the constitutionality of Alabama's law banning dismemberment abortions.

Attorney General Marshall filed a cert petition with the Supreme Court Thursday asking the court to review the 11th U.S. Circuit Court of Appeals' August 2018 ruling against Alabama's 2016 law banning the gruesome second-trimester abortion procedure. About seven percent of the abortions performed in Alabama each year are dismemberment abortions. State law allows the use of more humane alternative medical procedures to perform second-trimester abortions.

"The constitutionality of a state ban on dismemberment abortion is an important question of national significance," Attorney General Marshall wrote in the brief. "At least nine states have enacted laws to ban dismemberment abortion. Litigation over some of these similar abortion laws is pending in the Fifth Circuit, the Eighth Circuit and multiple state courts."

In a dismemberment abortion, a doctor dismembers a living unborn child and extracts him or her one piece at a time from the uterus using clamps, grasping forceps, tongs, or scissors. Attorney General Marshall argued that Alabama's law is similar to the federal ban on partial-birth abortions which was enacted in 2003 and upheld by the Supreme Court in 2007.

"The lower courts were wrong to enjoin Alabama from enforcing its ban on the dismemberment of a living fetus. Federal law constitutionally prohibits partial-birth abortions. And there is no 'meaningful difference' between death-by-dismemberment abortion in the womb and partial-birth abortion outside it," Attorney General Marshall wrote.

"As the court of appeals expressly recognized, only this Court can resolve the inconsistency in treatment between partial-birth and dismemberment abortion. The Court should grant certiorari and reverse."

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Link to copy of Alabama's cert petition