

EXCLUSIVE: ROE V. WADE'S SECRET HEROINE TELLS HER STORY

In 1970, Linda Coffee met with a young, unhappily pregnant woman who wanted to take on Texas's anti-abortion laws. Over the next two years, she would help mastermind the legal strategy that cemented *Roe v. Wade* as the law of the land. But Coffee would be largely erased from history. As we prepare to celebrate the 44th anniversary of the Supreme Court ruling, which falls two days after Donald Trump's inauguration, her story is more important than ever.

BY JOSHUA PRAER



Linda Coffee in Dallas, Texas, February 1972. FROM BETTMANN/GETTY IMAGES.

This Sunday, January 22, marks 44 years since the Supreme Court ruling *Roe v. Wade* made abortion legal throughout the United States. In all that time, no ruling has proved more contentious. And with the election of **Donald Trump**, who has pledged to undo the law, the marches and protests that mark its every anniversary will only grow more urgent.

There will be much said about people whose efforts, in different ways, brought Roe into being—plaintiff **Norma McCorvey**, Justice Harry Blackmun, and lawyer **Sarah Weddington**. It was Weddington who argued before nine robed men that a woman’s right to end a pregnancy was embedded in the Constitution. Seven of them agreed. And as Roe rose to remarkable renown—“undoubtedly the best-known case the United States Supreme Court has ever decided,” as the legal scholar Ronald Dworkin has noted—so did the lawyer who had won it.

But Weddington did not win it alone. She had a partner, a co-counsel named **Linda Coffee**. It was Coffee, in fact, who found the plaintiff, wrote the initial petitions, and filed the suit. It was Coffee who presented half the oral argument in District Court and appealed the ruling to the Supreme Court. But when Roe reached the highest court in the land, Coffee had been content to sit behind Weddington. And after the 7 to 2 ruling—with the court granting women the right to an abortion “free of interference by the state”—she had further been content to slip away, remaining largely unacknowledged even as her co-counsel absorbed recognition enough for two.

In the first two decades after the decision, Coffee seldom spoke publicly about *Roe*. Then she stopped mentioning it entirely. Indeed, she went into seclusion. I had found Coffee, three winters ago, in the course of research for a book I am writing about Roe and the plaintiff behind it. (I wrote about McCorvey for *Vanity Fair* in 2013.) Over the course of a few days, in the small Texas town where she now lives, Coffee told me her story. To the best of her memory, she had not given an interview since speaking with the historian David Garrow more than two decades ago.

Linda Nellene Coffee was born in Houston on Christmas Day, 1942. A sister followed, and the family of four eventually moved to Dallas. Home was on a lawny lane. But the center of Coffee’s life was a Southern Baptist church on Gaston Avenue, where her grandfather was a deacon and where she went to Sunday school, played softball, and sang in a choir. Coffee was shy but plucky; she once killed a scorpion that had scared off

other girls at a Baptist camp. And if she was absentminded, she was also cerebral, tutoring algebra at Woodrow Wilson High.

In high school, Coffee and other students were shown a cautionary film about abortion; afterward, it struck her as crucial that women be able to “control their fertility,” she recalled. She wondered why it was acceptable for a man, but not a woman, to have sex before marriage.

Coffee enrolled at Rice University in 1961. She considered, and then rejected, careers in math, medicine, and German. At a loss, she took the LSAT. Three years later, she graduated with high honors from the University of Texas at Austin School of Law, elected to the Order of the Coif, an honor society.

Coffee thought she might go into domestic-relations law; she had interned at a legal aid society in Austin that helped disadvantaged women. But in 1968, it was the rare law firm that offered a woman a job; in Texas, women often needed the backing of a man just to rent an apartment. No firms made Coffee an offer, and she went to work at the Texas Legislative Council, a state agency where, for \$600 a month, she helped legislators draft bills.

It was then that her mother heard through a lawyer at the Baptist General Convention that Sarah Hughes, the first female federal judge in Texas, wanted to hire a new clerk. Hughes was famous for swearing in Lyndon Johnson as president aboard Air Force One, after John F. Kennedy was assassinated. But Coffee admired her for working on behalf of women—fighting to secure them equal pay and the right to serve on juries. She applied for the clerkship. And when, recalled Coffee, on the April morning of her interview, *The Dallas Morning News* happened to print the bar-exam results, Hughes saw that her score of 87 had tied for the second highest in the state.

Coffee waded through a backlog of civil motions for Hughes, and then, after landing a job at a small bankruptcy firm in Dallas, through petitions for bankruptcy. She enjoyed the work. But she wished to do more. Hughes had taught her clerks to take *stances*. This

she did in April of 1969, helping a childhood friend turned lawyer named Henry McCluskey to defend a defrauded man. Soon after, McCluskey—who was gay—decided to challenge the Texas laws against sodomy. He again asked Coffee for help. Coffee was excited. Such a suit would hinge on important questions of privacy.

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Coffee got to work. “I wrote some kind of brief and drafted a complaint for him,” she said. McCluskey filed suit in May of 1969 and the court ruled in *Buchanan v. Batchelor* that the law was unconstitutional—at least with respect to married couples. Coffee, though, kept her involvement private. Like McCluskey, she was gay, though not open about the fact. “I wasn’t about to touch that publicly,” she said. “I would not have enough nerve to even be the counsel of record.”

Coffee was in the Southern Methodist University library when, in early September of 1969, she came upon mention of another suit involving sex and its ramifications: *People v. Belous*. Only days before, the California Supreme Court had exonerated a doctor who had referred a woman to an illegal abortion provider. Here was a ruling that rendered a state abortion law void on grounds that it was constitutionally vague and that it violated the “due process” clause of the 14th Amendment. Surely the abortion law in Texas was vulnerable too. “I just thought, my goodness!” Coffee recalled. “The same logic would apply.”

The Texas law was a legal relic, out of step with the reality that “if a woman self-aborted,” as Coffee noted, “she was guilty of no crime, not even a misdemeanor.” There was just one problem: she had no plaintiff. “I couldn’t figure out how I could find a pregnant woman who was willing to come forward,” Coffee said. She shared her thinking with McCluskey, an adoption attorney. In January of 1970, she recalled, he

phoned her with word of an unhappily pregnant woman who'd come to his office. Her name was Norma McCorvey.

Coffee met with her at once. The would-be plaintiff was ill at ease. Coffee was incapable of small talk, and pale and unkempt besides. She looked, McCorvey recalled, "like she got out of bed and forgot to comb her hair." Still, McCorvey wanted an abortion and wished to proceed with a lawsuit. Coffee quickly fashioned for her a pseudonym, combining, she explained, Jane (which was suitably common) with Roe (which, along with Doe, was standard legal vernacular).

A month earlier, Coffee had also received a phone call from a law-school classmate named Sarah Weddington. The women were not friends, but they happened to be two of the handful of women in their University of Texas law school class of 1965. Both knew what it was to overcome obstacles born of gender. Weddington had found work helping a professor draft the ethical standards of the American Bar Association. She was now also helping a women's group in Austin strategize how best to challenge the state's abortion law. And wanting to enlist a lawyer with knowledge of federal courts and procedure, she phoned Coffee.

On the surface, Weddington seemed as unlikely an agent of reform as Coffee. She was hardly countercultural. Middle class and married, the daughter of a Methodist minister, she had headed her high school chapter of the Future Homemakers of America. But experience forms conviction. And the year before she was to marry, she found herself pregnant and had gotten an abortion at a clinic in Mexico, telling no one but her future husband.

Coffee was delighted to have a partner. She wrote to Weddington the next day: "Would you consider being co-counsel in the event that a suit is actually filed? I have always found that it is a great deal more fun to work with someone on a lawsuit of this nature." Weddington accepted.

Coffee subsequently sat down to write a petition on behalf of Jane Roe, staking out the legal ground upon which the suit would stand. That ground had to be *inferred*. The U.S. Constitution said nothing explicit about abortion. And in its 180 years, the Supreme Court had never addressed the issue.

Coffee, however, believed that a 1965 ruling in *Griswold v. Connecticut* provided the precedent she needed. In *Griswold*, the court had overturned a state ban on the use of contraceptives by a seven-two vote. It did so on the grounds that the ban violated a constitutional right to “marital privacy.” It seemed to Coffee that the same right to privacy ought to encompass abortion—that what held for the prevention of pregnancy ought to hold for its termination too. Needing to make clear where in the Constitution the right to privacy lay, she argued, as she recalled, that the Texas abortion statutes violated six different amendments—the 1st, 4th, 5th, 8th, 9th, and 14th. She further asserted that the statutes were “vague” and “unconstitutionally broad,” and thus infringed upon the “fundamental right of all women to choose whether to bear children.” “You almost had to argue on the basis of common sense,” said Coffee, noting how little precedent there was for her to rely on. On March 3, 1970, Coffee delivered her work to the Dallas federal district courthouse, paying \$30 in cash to have it filed. As a matter of course, she named Henry Wade, the Dallas district attorney, as the defendant.

Coffee and Weddington had amended *Roe* to make it a class-action suit when, in May, the hearing got under way. The lawyers divided their oral argument, Coffee recalled—Weddington spoke about privacy and precedence and personhood, while Coffee addressed the more arcane procedural points of jurisdiction and standing. A month later, the court ruled that the law was void.

It was, however, an incomplete victory. The three-judge District Court had also ruled that the district attorney would be allowed to continue to enforce the very laws it had deemed unconstitutional. Coffee readied to file an appeal. And as she now explained to Weddington, because the court had found a state law unconstitutional while granting no

injunction against enforcing it, she could appeal directly to the Supreme Court. This she did. Weeks later, on May 3, the Supreme Court agreed to hear *Roe*.

Coffee and Weddington agreed that Weddington would present the whole of their oral argument to the court. Weddington enjoyed the public stage as much as Coffee disliked it. Moreover, despite her brilliance, Coffee could come across as bedraggled. And optics mattered. “She was younger than I was,” Coffee said of Weddington. “She was blonde, blue-eyed.”

Weddington began to prepare the legal brief. And having worked on it together with her lawyer husband, all through the summer, she was prepared and poised when, on December 13, 1971, she rose to address the Supreme Court. Weddington wore a suit, heels, and pearls. She was all of 26. And as she spoke from her lectern about pregnancy and fetuses, precedent and state interest, Coffee sat at the counsel table and listened. She returned to the table the following October after the court decided to have the case reargued.

Three months later, on January 22, Coffee was alone in her car when she heard on the radio that the Supreme Court had rendered its historic ruling. A wire service report identified Weddington as the lawyer “who submitted the class action suit that led to Monday’s ruling.” Coffee went unmentioned.

The case that Coffee originated would affect the lives of millions of women. But it did not much affect hers. She returned to the tedium of bankruptcy law. Weddington, for her part, entered the world of politics and activism, where she has been ever since.

Coffee continued to pay attention to *Roe* and its fortunes. On the eve of its first anniversary, she lamented to a local paper that the effects of the ruling were not equally available to the poor. But in most respects, she left *Roe* behind, consumed by her work.

Not that she wanted to be. Months after *Roe*, Coffee had gone to Israel on a trip for Baptist singles. She was still single a decade later when, in the winter of 1983, she

responded, at age 40, to a personal ad in *The Dallas Observer*. The ad, from a woman, sought another woman of “intelligence” and “modesty.” Coffee possessed both. The women became a couple.

Coffee continued to say little or nothing about her role in *Roe*. Her résumé did not even mention it. What mattered to her, she said, was that abortion was legal, not that she helped make it so. And she was content: she had a job, a relationship, and a good name. It was thus devastating when, in the spring of 1989, she lost the last of these, indicted on charges of fraud for allegedly concealing documents and forging a signature. Claiming she was innocent of the charges, Coffee helped her lawyer prove that fact, instructing him to subpoena various records and then, she recalled, drafting the subpoenas herself. The documents exonerated Coffee—revealing, for instance, that Coffee had filed a formal disclosure indicating that she had signed for the client. The judge directed a verdict of acquittal.

But she had been humiliated. Coffee said, “I spent about two weeks where I could barely get out of bed.” In a sense, she never did. “She became less and less talkative,” said **Peggy Clewis**, who for many years was a secretary at Coffee’s firm. “She kind of withdrew.” Coffee’s firm closed in 2001. In the years that followed, Coffee stopped practicing law and moved elsewhere in Texas with her partner, settling into a home with no air-conditioning or heat, and getting by on food stamps and Social Security.

If Coffee has chosen to remain anonymous, she is nonetheless proud of *Roe*. “With very little resources,” she said, “we put together something that’s still standing.” And four Januarys ago, as the 40th anniversary of the ruling approached, Coffee at last told one person in town who she was. She wanted someone to know of her work on *Roe*, she said, in the event that a film crew arrived and people wondered why. A film crew never came.