



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

OKLAHOMA CALL FOR)
REPRODUCTIVE JUSTICE, on)
behalf of itself and its members,)
TULSA WOMEN'S)
REPRODUCTIVE CLINIC, LLC,)
on behalf of itself, its physicians, its)
staff, and its patients, ALAN BRAID,)
M.D., on behalf of himself and his)
patients, COMPREHENSIVE)
HEALTH OF PLANNED)
PARENTHOOD GREAT PLAINS,)
INC., on behalf of itself, its)
physicians, its staff, and its patients,)
and PLANNED PARENTHOOD)
OF ARKANSAS & EASTERN)
OKLAHOMA, on behalf of itself,)
its physicians, its staff, and its)
patients,)

Plaintiffs/Appellants,)

v.)

JOHN O'CONNOR, in his official)
capacity as Attorney General for)
the State of Oklahoma, DAVID)
PRATER, in his official capacity as)
District Attorney for Oklahoma)
County, STEVE KUNZWEILER,)
in his official capacity as District)
Attorney for Tulsa County, LYLE)
KELSEY, in his official capacity)
as Executive Director of the)
Oklahoma State Board of Medical)
Licensure and Supervision, KATIE)
TEMPLETON, in her official)
capacity as President of the)
Oklahoma State Board of)

FILED
SUPREME COURT
STATE OF OKLAHOMA

OCT 25 2021

JOHN D. HADDEN
CLERK

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

OCT 28 2021

RICK WARREN
COURT CLERK
29 th

Cv. 21-2072
No. 119,918

Osteopathic Examiners, LANCE)
FRYE, in his official capacity as)
the Commissioner of the Oklahoma)
State Board of Health, and JUSTIN)
WILSON, in his official capacity as)
the President of the Oklahoma State)
Board of Pharmacy, as well as their)
employees, agents, and successors,)
)
Defendants/Appellees.)

ORDER

The trial court previously granted temporary injunctive relief with respect to HB 1102 and HB 2441 and we continue that temporary injunction pending appeal.

Appellants request a temporary injunction to enforcement of HB 1904, SB 778, and SB 779 pending appeal. Plaintiffs-Appellants' Emergency Motion for a Temporary Injunction Pending Appeal to Preserve the Status Quo is granted. Title 12 O.S. 2011 § 990.4(C).

DONE BY THE ORDER OF THE SUPREME COURT IN CONFERENCE
THIS 25th DAY OF OCTOBER, 2021.


Acting CHIEF JUSTICE

Kauger, Winchester, Edmondson, Combs and Gurich, JJ., concur.

Kane, V.C.J., Rowe (by separate writing) and Kuehn, JJ., dissent.

Darby, C.J., not present.

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Defendants/Appellees.)

ROWE, J., dissenting:

¶1 I dissent from the Court's Order granting Appellants' Emergency Motion for Temporary Injunction Pending Appeal to Preserve the Status Quo. Appellants have failed to demonstrate a likelihood of success on the merits.

¶2 The Appellants never asserted federal constitutional claims before the trial court, but rather chose to assert claims under the Oklahoma Constitution exclusively. We have never recognized a right to abortion under the provisions of the Oklahoma Constitution. See *Oklahoma Coalition for Reproductive Justice v. Cline*, 2019 OK 33, ¶17, 441 P.3d 1145, 1151.

¶3 As recently as September 1 and October 22, 2021, the United States Supreme Court denied applications to enjoin the enforcement of a Texas law restricting abortion, finding that Appellants had not met their burden "to prevail in an injunction or stay application under a federal constitutional question" despite raising questions as to their constitutionality. *Whole Woman's Health v. Austin Reeve Jackson*, No. 21A24, 594 U.S. ____ (September 1, 2021) (denying application to enjoin enforcement of Texas S.B. 8); *United States v. Texas*, No. 21A85 (21-588), 595 U.S. ____ (October 22, 2021) (granting petition for writ of certiorari, scheduling oral argument, but declining to enjoin enforcement in the interim). In this instance, we should do the same.

¶4 Accordingly, I respectfully dissent.