



FILED IN DISTRICT COURT
OKLAHOMA COUNTY

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

APR 28 2022

RICK WARREN
COURT CLERK

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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,

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 Osteopathic Examiners; KEITH REED, 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.

CASE NO. CV-2021-2072

**PLAINTIFFS' MOTION FOR A TEMPORARY INJUNCTION BARRING
ENFORCEMENT OF S.B. 612**

Pursuant to 12 O.S. § 1382, Plaintiffs Oklahoma Call for Reproductive Justice; Tulsa Women's Reproductive Clinic, LLC; Alan Braid, M.D.; Comprehensive Health of Planned Parenthood Great Plains, Inc.; and Planned Parenthood of Arkansas & Eastern Oklahoma hereby move this Court for a temporary injunction restraining Defendants, their employees, agents, and successors, and all others acting in concert or participation with them, from enforcing Oklahoma Senate Bill 612 (attached as Exhibit A to Plaintiffs' First Supplemental Petition) ("S.B. 612" or "the Act"), which bans abortion entirely with a limited exception for "medical emergenc[ies]." S.B. 612 § 1.¹

This motion is based upon the First Supplemental Petition and exhibit; the memorandum of law filed herewith; and the affidavits of Priya Desai (Exhibit 1), Dr. Alan Braid (Exhibit 2), and Emily Wales (Exhibit 3), attached thereto.

As more fully explained in the accompanying memorandum of law, a temporary injunction is warranted because: (1) Plaintiffs are likely to succeed on the merits of their claims that the Act is unconstitutional; (2) Plaintiffs and the Oklahomans they represent will suffer irreparable harm if the Act takes effect; (3) the balance of equities tips in favor of Plaintiffs and the Oklahomans they represent; and (4) the public interest will be served by an injunction. *Edwards v. Bd. of Comm'rs of Canadian Cty.*, 2015 OK 58, ¶ 12, 378 P.3d 54, 59.

S.B. 612 creates criminal liability for physicians who provide abortion care. Under S.B. 612, a person who provides an abortion may be convicted of a felony "punishable by a fine

¹ Plaintiffs have also had to challenge a bill passed today, April 28, 2022, that bans abortion after approximately 6 weeks of pregnancy and has an immediate effective date, Senate Bill 1503. Unlike the bans challenged in this case, which are enforced by state actors, S.B. 1503 is solely enforced through private civil lawsuits—presenting a host of unique constitutional issues. Plaintiffs have thus filed a challenge to SB 1503 directly in the Oklahoma Supreme Court in the form of an original action, and Plaintiffs have asked the Supreme Court to address the validity of that ban expeditiously.

not to exceed One Hundred Thousand Dollars (\$100,000), or by confinement in the custody of the Department of Corrections for a term not to exceed ten (10) years, or by such fine and imprisonment.” S.B. 612 § 1(B)(2). S.B. 612 has only one narrow exception for abortions necessary “to save the life of a pregnant woman in a medical emergency,” which the Act defines as “a condition which cannot be remedied by delivery of the child in which an abortion is necessary to preserve the life of a pregnant woman” *Id.* § 1(A)(2).

First, Plaintiffs are likely to succeed on their claims that by banning abortion entirely with criminal penalties, the Act violates Oklahomans’ rights to choose to have an abortion prior to viability and was enacted with the improper purpose of eliminating this right. *See Okla. Coal. for Reprod. Just. v. Cline*, 2019 OK 33, ¶ 43, 441 P.3d 1145, 1161; *Jane L. v. Bangerter*, 102 F.3d 1112, 1114, 1117-18 (10th Cir. 1996).

Second, if the Act takes effect, Plaintiffs and the Oklahomans they represent will suffer irreparable harm because abortion access will be eliminated for nearly all Oklahomans seeking abortions. They will be outright denied their right to abortion and forced to carry unwanted pregnancies to term or delayed in accessing care, forcing them into later, more complex, and/or more expensive abortions and subjecting some to increased risk, among other harms. The violation of constitutional rights is *per se* irreparable harm. *See Elrod v. Burns*, 427 U.S. 347, 373 (1976). In contrast, Defendants will suffer little or no harm if the Act enjoined pending resolution on the merits.

Third, given the irreparable harm threatened to Oklahomans seeking abortions, the balance of equities swings decidedly in favor of Plaintiffs. A temporary injunction will merely preserve the pre-trial status quo as the case proceeds on the merits. *Okla. Pub. Emps. Ass’n*, 2014 OK 48, ¶ 15, 330 P.3d 497, 504.

Fourth, granting an injunction would be in the public's interest because it is always in the public interest to prevent the violation of a party's constitutional rights. *Am. Civil Liberties Union v. Johnson*, 194 F.3d 1149, 1163 (10th Cir. 1999).

Plaintiffs further request that a bond be waived should the Court grant temporary injunctive relief, given the important constitutional rights Plaintiffs assert and the lack of any harm to Defendants from temporarily enjoining the Act.

Dated: April 28, 2022

Respectfully Submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 28th day of April, 2022, a true and correct copy of the foregoing was served via hand delivery to all Defendants through their attorneys:

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