



ORIGINAL

FILED
SUPREME COURT
STATE OF OKLAHOMA

OCT 13 2021

JOHN D. HADDEN
CLERK

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 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.

#119918

Case No. _____
District Court Case CV-2021-2072

-----ORIGINAL-----
Rec. _____
Marshall _____
Reynolds _____
Cert. mailed _____
Updated _____

PETITION IN ERROR

- X PETITION IN ERROR
- AMENDED OR SUPPLEMENTAL PETITION
- CROSS PETITION
- COUNTER-PETITION
- DATE FIRST PETITION IN ERROR FILED: _____

I. TRIAL COURT HISTORY

COURT/TRIBUNAL: District Court
COUNTY: Oklahoma
CASE NO.: CV-2021-2072
JUDGE: The Honorable Cindy Truong
NATURE OF CASE: Restrictions on Abortion
(e.g., Divorce, Personal Injury)

NAME OF PARTY OR PARTIES FILING THIS PETITION IN ERROR: Plaintiffs-Appellants 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

THE APPEAL IS BROUGHT FROM: (Check one)

- Judgment, Decree or Final order of District Court.
- Appeal from order granting summary judgment or motion to dismiss where motion filed after October 1, 1993 (Accelerated procedure under Rule 1.36).
- Appeal from Revocation of Driver's License (Rule 1.21(b)).
- Final Order of Other Tribunal.
(Specify Corporation Commission, Insurance Department, Tax Commission, Court of Tax Review, Banking Board or Banking Commissioner, etc. _____)
- Interlocutory Order Appealable by Right.
- Other _____

II. TIMELINESS OF APPEAL

1. Date judgment, decree or order appealed was filed: 10/07/2021.
2. If decision was taken under advisement, date judgment, decree or order was mailed to parties: _____
3. Does the judgment or order on appeal dispose of all claims by and against all parties?
 Yes No.
If not, did district court direct entry of judgment in accordance with 12 O.S. § 994? Yes No.
When was this done? _____
4. If the judgment or order is not a final disposition, is it appealable because it is an Interlocutory Order Appealable by Right? Yes No.
5. If none of the above applies, what is the specific *statutory* basis for determining the judgment or order is appealable? _____
6. Were any post-trial motions filed?

<u>Type</u>	<u>Date Filed</u>	<u>Date Disposed</u>

7. This Petition is filed by: Delivery to Clerk, or
 Mailing to Clerk by U.S. Certified Mail, Return Receipt
Requested, on _____ (date)

III. RELATED OR PRIOR APPEALS

List all prior appeals involving same parties or same trial court proceeding: _____

List all related appeals involving same issues: _____

(Identify by Style, Appeal Number, Status, and Citation, if any. If none, so state.)

IV. SETTLEMENT CONFERENCE

Is appellant willing to participate in an attempted settlement of the appeal by predecisional conference under Rule 1.250? Yes No

V. RECORD ON APPEAL

A Transcript will be ordered.
 No Transcript will be ordered because no record was made and/or no transcript will be necessary for this appeal
 A Narrative Statement will be filed
 Record is concurrently filed as required by Rule 1.34 (Driver's License Appeals, etc.) or Rule 1.36 (Summary judgments and motions to dismiss granted).
A transcript of the District Court hearing held on October 4, 2021 has been ordered and paid for.

VI. JUDGMENT, DECREE OR ORDER APPEALED -- EXHIBIT "A"

(Attach as Exhibit "A" to the Petition in Error a certified copy of the judgment, decree or order from which the appeal is taken. If a post-trial motion extending appeal time under Rule 1.22 was filed, a certified copy of the order disposing of the motion must be attached also.)

VII. SUMMARY OF CASE -- EXHIBIT "B"

Attach as Exhibit "B" a brief summary of the case *not to exceed one 8 ½"x 11" double spaced page.*

VIII. ISSUES TO BE RAISED ON APPEAL -- EXHIBIT "C"

Attach as Exhibit "C" the issues proposed to be raised. Include each point of law alleged as error. Avoid general statements such as "Judgment not supported by law."

IX. NAME OF COUNSEL OR PARTY, IF PRO SE

ATTORNEY FOR APPELLANT

Name: J. Blake Patton

OBA No.: 30673

Firm: WALDING & PATTON PLLC

Designated Case-Specific Email Address: [if applicable] bpatton@waldingpatton.com

Secondary Email Address: [if applicable]

Address: 518 Colcord Drive, Suite 100, Oklahoma City, OK 73102-2202

Telephone: (405) 605-4440

ATTORNEY FOR APPELLEE

Name: Zach West, Assistant Solicitor General

OBA No.: 30768

Firm: Office of the Oklahoma Attorney General

Designated Case-Specific Email Address: [if applicable] zach.west@oag.ok.gov

Secondary Email Address: [if applicable]

Address: 313 N.E. 21st Street, Oklahoma City, Oklahoma 73105

Telephone: (405) 522-4798

DATE: Oct. 13 2021



Verified by (Signature of Attorney or Pro Se Party)

WALDING & PATTON PLLC

Firm

bpatton@waldingpatton.com

Designated Case-Specific Email Address [if applicable]

Secondary Email Address [if applicable]

518 Colcord Drive, Suite 100, Oklahoma City, OK 73102-2202

Address

(405) 605-4440

Telephone

X. CERTIFICATE OF MAILING TO ALL PARTIES AND COURT CLERK

I hereby certify that a true and correct copy of the Petition in Error was mailed this 13 day of October, 2021 by depositing it in the U.S. Mail, postage prepaid or by electronic mail to Zach West, Assistant Solicitor General

313 N.E. 21st Street, Oklahoma City, Oklahoma 73105 zach.west@oag.ok.gov
(Name and Address and/or Email Address of Each Party or Counsel)

I further certify that a copy of the Petition in Error was mailed to, or filed in, the Office of Clerk, Oklahoma Supreme Court on the

(Court Clerk or Other Tribunal)

13 day of October, 2021.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

**IN THE DISTRICT COURT OF OKLAHOMA COUNTY
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,

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; 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.

Case No. 2021-2072
Hon. C. Truong

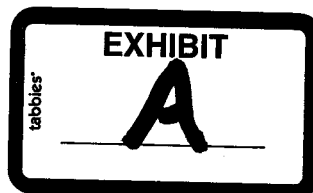
FILED IN DISTRICT COURT
OKLAHOMA COUNTY

OCT - 7 2021

RICK WARREN
COURT CLERK

126 _____

**ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFFS' MOTION FOR TEMPORARY INJUNCTION**



Pending before this Court is Plaintiffs' Motion for Temporary Injunction (the "TI Motion") barring enforcement of Oklahoma House Bills 1102, 2441, and 1904, and Senate Bills 778 and 779. The Court heard argument on the TI motion on October 4, 2021. Plaintiffs appeared by Rabia Muqaddam and Blake Patton. Defendants appeared by Assistant Solicitor General Zach West.

It is therefore HEREBY ORDERED.

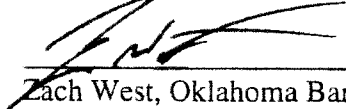
1. Plaintiffs' TI Motion is GRANTED as to House Bills 1102 and 2441, which are temporarily enjoined pending determination on the merits.
2. Plaintiffs' TI Motion is DENIED as to House Bill 1904 and Senate Bills 778 and 779.

IT IS SO ORDERED this 6TH day of October, 2021

CINDY H. TRUONG

THE HONORABLE CINDY TRUONG
DISTRICT COURT JUDGE

APPROVED AS TO FORM:


Zach West, Oklahoma Bar No. 30768
Assistant Solicitor General
Office of the Oklahoma Attorney General
313 N.E. 21st Street
Oklahoma City, OK 73105
Phone: (405) 522-4798
Fax: (405) 522-0608
Email: Zach.West@oag.ok.gov

ATTORNEY FOR DEFENDANTS


J. Blake Patton, Oklahoma Bar No. 30673
WALDING & PATTON PLLC

CERTIFIED COPY
AS FILED OF RECORD
IN DISTRICT COURT

OCT - 7 2021

RICK WARREN CLERK
Oklahoma County



518 Colcord Drive, Suite 100
Oklahoma City, OK 73102
Phone: (405) 605-4440
Fax: N/A
bpatton@waldingpatton.com

Rabia Muqaddam*
Caroline Sacerdote*
Jennifer Beard*
CENTER FOR REPRODUCTIVE RIGHTS
199 Water Street
22nd Floor
New York, NY 10038
Phone: (917) 637-3645
Fax: (917) 637-3666
rmuqaddam@reprorights.org
csacerdote@reprorights.org
jbeard@reprorights.org

Jerome Hoffman*
Dechert LLP
Cira Centre
2929 Arch Street
Philadelphia, PA 19104-2808
Phone: (215) 994-2496
Fax: (215) 665-2496
jerome.hoffman@dechert.com

Linda C. Goldstein*
Jenna C. Newmark*
Meghan Agostinelli*
Dechert LLP
Three Bryant Park
1095 Avenue of the Americas
New York, NY 10036
Phone: (212) 649-8723
Fax: (212) 314-0064
linda.goldstein@dechert.com
jenna.newmark@dechert.com
meghan.agostinelli@dechert.com

Jonathan Tam*
Dechert LLP
One Bush Street, Suite 1600
San Francisco, CA 94104-4446
T: (415) 262-4518

F: (415) 262-4555
jonathan.tam@dechert.com

Attorneys for Plaintiffs Oklahoma Call for Reproductive Justice, Tulsa Women's Reproductive Clinic, L.L.C., and Alan Braid, M.D.

Christine Clarke**
PLANNED PARENTHOOD FEDERATION OF AMERICA
123 Williams St., 9th Floor
New York, NY 10038
Phone: (212) 261-4749
Fax: (212) 247-6811

Diana Salgado**
PLANNED PARENTHOOD FEDERATION OF AMERICA
1110 Vermont Ave., NW, Suite 300
Washington, DC 20005
Phone: (212) 261-4399
Fax: (202) 296-3480

Attorneys for Plaintiffs Comprehensive Health of Planned Parenthood Great Plains, Inc. and Planned Parenthood of Arkansas & Eastern Oklahoma

*Admitted Pro Hac Vice

**Out-Of-State Attorney Applications Filed/Pending

EXHIBIT B: SUMMARY OF CASE

Plaintiffs-Appellants appeal the District Court's denial of a temporary injunction barring enforcement of H.B. 1904 (the "OB/GYN Requirement"), S.B. 778, and S.B. 779. The OB/GYN Requirement will catastrophically reduce abortion access by arbitrarily prohibiting board-certified family medicine doctors from providing abortion care. Given that the OB/GYN Requirement will have "*no effect* on the quality of care the patient receives," but will "cause[] a significant reduction in abortion providers, creating an onerous burden to women of child-bearing age," it violates the Oklahoma Constitution's Due Process Clause, Art. II, § 7. *Burns v. Cline*, 2016 OK 121 ¶¶ 13, 19, 387 P.3d 348, 353-54 (emphasis in original); *June Med. Servs. L.L.C. v. Russo*, 140 S. Ct. 2103, 2132 (2020) (plurality); *id.* at 2134 (Roberts, C.J., concurring); *Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292, 2300, 2310-18 (2016). S.B. 778 and S.B. 779 each set forth labyrinthine schemes that restrict access to medication abortion in a host of ways—dictating the "usage" of medication abortion, the "timing" of care, and the number of "doctor's office visits," *Okla. Coal. for Reprod. Just. v. Cline*, 2019 OK 33, ¶¶ 28-31, 441 P.3d 1145, 1155-58, while also enacting provisions that this Court or the U.S. Supreme Court has already struck down (i.e., admitting privileges and mandatory ultrasounds). *See Cline*, 2016 OK 121, ¶¶ 13, 19, 387 P.3d at 353-54; *Nova Health Sys. v. Pruitt*, 2012 OK 103, 292 P.3d 28. For these reasons, they violate Okla. Const. Art. II, § 7. Further, these schemes are a conglomeration of disparate restrictions that have nothing to do with each other and often are entirely unrelated to medication abortion. For this reason, they also violate the Oklahoma Constitution's single subject rule, Art. V, § 57. *Cline*, 2016 OK 121, ¶¶ 20-30, 387 P.3d at 354-56. Because these laws will violate Oklahomans' constitutional rights—which is per se irreparable injury, *Elrod v. Burns*, 427 U.S. 347, 373 (1976)—they should be enjoined to preserve the status quo.

EXHIBIT C: ISSUES TO BE RAISED ON APPEAL

1. Did the District Court err in denying Plaintiffs-Appellants a temporary injunction that would maintain the status quo by preventing H.B. 1904, S.B. 778, and S.B. 779 from going into effect where Plaintiffs-Appellants showed likelihood of success on the merits, irreparable harm to Plaintiffs-Appellants and the Oklahomans they represent, that there is no harm to the government if an injunction is granted, and that the public interest weighs in favor of granting injunctive relief?
2. Whether H.B. 1904 likely violates the Oklahoma Constitution's Due Process Clause, Art. II, § 7, where it will catastrophically reduce abortion access and has no medical justification.
3. Whether S.B. 778 likely violates the Oklahoma Constitution's Due Process Clause, Art. II, § 7, where it imposes a host of burdensome restrictions on medication abortion contrary to the medical evidence and reenacts a medically unnecessary mandatory ultrasound requirement far more burdensome than that which this Court has already invalidated.
4. Whether S.B. 779 likely violates the Oklahoma Constitution's Due Process Clause, Art. II, § 7, where it imposes a host of burdensome restrictions on medication abortion contrary to the medical evidence and reenacts a medically unnecessary admitting privileges requirement similar to that which this Court and the U.S. Supreme Court have already struck down.
5. Whether S.B. 778 likely violates the Oklahoma Constitution's single subject rule, Art. V, § 57, because it addresses numerous distinct subjects with no readily apparent common theme or purpose and delegates authority to multiple agencies for different purposes.
6. Whether S.B. 779 likely violates the Oklahoma Constitution's single subject rule, Art. V, § 57, because it addresses numerous distinct subjects with no readily apparent common theme or purpose and delegates authority to multiple agencies for different purposes.
7. Whether, absent injunctive relief, Plaintiffs-Appellants and the Oklahomans they represent will suffer irreparable harm where H.B. 1904, S.B. 778, and S.B. 779 will dramatically restrict access to abortion by causing a severe reduction in abortion providers and interfering with the provision of medication abortion, resulting in Oklahomans being significantly delayed in, or outright prevented from, obtaining abortions in Oklahoma.
8. Whether the balance of the equities and the public interest weigh in favor of a temporary injunction where the Defendants-Appellees will suffer no harm if a temporary injunction is granted, and an injunction would preserve the status quo.