



Supreme Court of Missouri

en banc

May 27, 2025

State ex rel. Michael Kehoe, in his
official capacity as Governor of the State
of Missouri, et al.,

Relators,

vs.

The Honorable Jerri Zhang,

Respondent.

No. SC101026

PEREMPTORY WRIT

Having reviewed the writ petition, the suggestions in support thereto, and the suggestions in opposition and finding it is necessary, in the interest of justice, to dispense with further briefing and argument, *see* Rule 84.24(i), the Court issues this peremptory writ.

In *State ex rel. Director of Revenue v. Gabbert*, 925 S.W.2d 838, 839 (Mo. banc 1996), this Court relied on *Dataphase Systems, Inc. v. C L Systems, Inc.*, 640 F.2d 109, 113 (8th Cir. 1981), in setting forth the standard for issuing preliminary injunctive relief. Since this Court's decision in *Gabbert*, the Eighth Circuit has rejected the *Dataphase* standard and applied a more rigorous standard when the relief sought is a preliminary injunction to enjoin the implementation of a duly enacted state statute. *See Planned Parenthood Minn., N.D., S.D. v. Rounds*, 530 F.3d 724, 731-33 (8th Cir. 2008). When "a preliminary injunction is sought to enjoin the implementation of a duly enacted state statute," the court must "make a threshold finding that a

party is likely to prevail on the merits.” *Id.* at 732-33. This Court hereby holds the correct standard is: (1) the threat of irreparable harm to the moving party; (2) balancing this harm with any injury an injunction would inflict on other interested parties; (3) the moving party is likely to prevail on the merits; and (4) the effect on the public interest. *Id.* at 729 n.3, 731-33.

Accordingly, this Court hereby orders Respondent to vacate her orders granting preliminary injunctive relief with respect to the enjoinder of the state statutes and regulations identified therein and reevaluate Comprehensive Health of Planned Parenthood Great Plains and Planned Parenthood Great Rivers-Missouri’s request for preliminary injunctive relief in light of this standard.

No motions pursuant to Rule 84.17 shall be filed in this matter.

Day – to – Day

Mary R. Russell

Mary R. Russell
Chief Justice

STATE OF MISSOURI – SCT.:

I, BETSY LEDGERWOOD, Clerk of the Supreme Court of Missouri, do hereby certify that the foregoing is a true copy of the order of said court, delivered in the foregoing entitled cause, on the 27th day of May, 2025, as fully as the same appears on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said

Supreme Court. Done at office in the City of Jefferson, State aforesaid, this
27th day of May, 2025.



Betsy Ledgerwood, Clerk

Pam Waggon, Deputy Clerk