

No. 20-6055

**In The United States Court of Appeals
for the Tenth Circuit**

SOUTH WIND WOMEN'S CENTER LLC, d/b/a TRUST WOMEN OKLAHOMA CITY, on behalf of itself, its physicians and staff, and its patients; LARRY A. BURNS, D.O., on behalf of himself, his staff, and his patients; and COMPREHENSIVE HEALTH OF PLANNED PARENTHOOD GREAT PLAINS, INC., on behalf of itself, its physicians and staff, and its patients,

Plaintiffs-Appellees,

vs.

J. KEVIN STITT in his official capacity as Governor of Oklahoma; MICHAEL HUNTER in his official capacity as Attorney General of Oklahoma; DAVID PRATER in his official capacity as District Attorney for Oklahoma County; GREG MASHBURN in his official capacity as District Attorney for Cleveland County; GARY COX in his official capacity as Oklahoma Commissioner of Health; and MARK GOWER in his official capacity as Director of the Oklahoma Department of Emergency Management,,

Defendants-Appellants.

On Appeal from the United States District Court for the
Western District of Oklahoma
The Honorable Charles B. Goodwin
District Court Case No. CIV-20-277-G

**APPELLEES' OPPOSITION TO EMERGENCY MOTION
TO EXPEDITE APPEAL**

Appellees oppose the motion to expedite the appeal and consolidate the briefing with the emergency stay application for several reasons.

First, as described more fully in Appellees' opposition to the motion for an emergency stay, the emergency stay application itself is frivolous. This Court has already rejected the State's claims of irreparable injury in *South Wind Women's Ctr. v. Stitt*, No. 20-6045 (10th Cir. Apr. 13, 2020). There, the Appellants sought to appeal the District Court's issuance of a 14-day temporary restraining order that permitted certain abortion services to proceed. This Court dismissed that appeal for lack of appellate jurisdiction because Appellants had failed to establish the requisite irreparable injury. *See South Wind Women's Ctr. v. Stitt*, No. 20-6045, 2020 WL 1860683 at *2-3 (10th Cir. Apr. 13, 2020). The State has not made any different or better showing here. Instead, the State contends that they it will be irreparably injured because its appeal will become moot when Governor Stitt's Executive Order expires "*in toto* on April 30." Motion to Expedite at 2. But that argument is entirely circular. If this appeal were to become

moot, the State would be irreparably injured only if it had established some injury from the preliminary injunction, which it has not.

Second, Appellees are prejudiced by consolidating the stay motion with the merits of the appeal of the District Court's preliminary injunction motion. The preliminary injunction relies on detailed, carefully supported findings of fact, and it has not been possible to identify all of the grounds for affirming the District Court's decision within the 5,200 word limit of Appellees' opposition, which has been prepared in less than 48 hours. Should the Court consolidate the emergency stay motion with merits briefing, Appellees respectfully request an opportunity to submit further briefing in support of the District Court's decision. Appellees will be prepared to submit such a brief within 72 hours of a ruling on this motion to expedite.

Dated: April 24, 2020

Respectfully submitted,

/s/ Linda C. Goldstein

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CORPORATE DISCLOSURE STATEMENT

South Wind Women's Center LLC, d/b/a Trust Women Oklahoma City and Comprehensive Health of Planned Parenthood Great Plains, Inc., pursuant to Fed. R. App. P. 26.1, each certify that they have no stock and therefore no publicly held corporation owns 10% or more of their stock.

**CERTIFICATE OF COMPLIANCE
WITH TYPE VOLUME LIMITATION**

Pursuant to Fed. R. App. P. 32(a)(7)(B), the undersigned certifies the motion complies with the Rule 27 type-volume limitation as it contains 322 words. Respectfully submitted this 24th day of April, 2020.

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CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2020, a copy of this Opposition to Emergency Motion to Expedite Appeal was served by the electronic court filing system upon the following parties:

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CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that with respect to the foregoing:

- (1) all required privacy redactions have been made per 10th Cir. R. 25.5;
- (2) if required to file additional hard copies, that the ECF submission is an exact copy of those documents;
- (3) the digital submissions have been scanned for viruses with the most recent version of a commercial virus scanning program, Windows Defender Antivirus, version 1.313.1029.0, last updated Dec. 23, 2019, and according to the program are free of virus.

By: /s/ Linda C. Goldstein

Linda C. Goldstein