No. 20-5969

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

MEMPHIS CENTER FOR REPRODUCTIVE HEALTH, *et al.*,
Plaintiffs-Appellees,

vs.

HERBERT H. SLATERY III, Attorney General of Tennessee, in his official capacity, *et al.*,
Defendants-Appellants.

On Appeal from the United States District Court
Middle District of Tennessee, Nashville Division
No. 3:20-cv-00501

PLAINTIFFS-APPELLEES' RESPONSE TO DEFENDANTS-APPELLANTS' PETITION FOR REHEARING EN BANC

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CORPORATE DISCLOSURE STATEMENT

Plaintiffs-Appellees Memphis Center for Reproductive Health, Planned Parenthood of Tennessee and North Mississippi, Knoxville Center for Reproductive Health, FemHealth USA, d/b/a carafem, Dr. Kimberly Looney, and Dr. Nikki Zite do not have parent corporations. No publicly held corporation owns ten percent or more of Plaintiffs-Appellees' stock.

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INTRODUCTION

Defendants-Appellees (the "State") present no "error of exceptional public importance" or direct conflict with "Supreme Court or Sixth Circuit" precedent to justify rehearing en banc, and their petition should be denied. 6th Cir. I.O.P. Rule 35(a). To the contrary, the Court correctly upheld the district court's preliminary injunction. The State makes three arguments in favor of rehearing en banc, none of which hold water.

First, precedent supports, rather than undermines, the Court's affirmance of the district court's decision to preliminarily enjoin the Reason Bans on vagueness grounds. As the Court explained, the Supreme Court and this Court have distinguished between non-vague laws that impose liability based on a fact that is hard to prove and laws that are vague because of the "'indeterminacy of precisely what the fact is.'" Sept. 10, 2021 Opinion, R. 97-2 ("Op.") 26 (quoting *United States v. Williams*, 553 U.S. 285, 306 (1992)); *United States v. Paull*, 551 F.3d 516, 525 (6th Cir. 2009). The Reason Bans impose liability based on a physician's knowledge of something fundamentally indeterminate—a patient's but-for motivations for seeking an abortion. This distinguishes the Reason Bans from the law at issue in *Preterm-Cleveland v. McCloud*, 994 F.3d 512 (6th Cir. 2021) (en banc). The State has never been able to identify an analogous law, and Plaintiffs are aware of none.

To date, as the Court found, Tennessee has been unable to articulate what the law actually prohibits among common circumstances. For example, patients seek abortions for multiple reasons, including when they have a fetal diagnosis of Down syndrome and do not feel they have the resources—financial, medical, educational, or emotional—to care for a child with disabilities. The State paints this circumstance and others in which the application of the Reason Bans is unclear as "hypothetical close cases." State Petition, R.98 ("Pet.") 3. But, as the Court found, these circumstances are real-life situations presented below in sworn testimony wherein the State cannot say whether providing an abortion is illegal. Op. 27-29. As the Court pointed out, this is precisely the "conundrum" the Supreme Court refers to when it describes statutes that require a "'subjective judgment' as 'indetermina[te].'" Op. 26 (quoting *Williams*, 553 U.S. at 306).

Second, the State's disagreement with the Court's dicta expressing concerns about the legitimacy of the State's interests in enacting the laws challenged in this case is not grounds for en banc review. The Court does not grant en banc review solely to correct dicta, given that it is not binding and cannot therefore present an issue of exceptional importance. In any event, the State's criticism of the Court's dicta is meritless.

Third, en banc review should not be granted to reexamine *Women's Medical Professional Corporation v. Voinovich*, given that the Court did not reach Plaintiffs'

argument that the medical emergency provisions are unconstitutional, which relied on that case. As the Court held, this claim was "unnecessary to decide" because the "injunction on other grounds moots the issue." Op. 33.

Accordingly, for all these reasons discussed further below, the Court's decision is fully consistent with this Court's and the Supreme Court's precedents, and the State's Petition should be denied.

STATEMENT OF THE CASE

In 2020, the Tennessee legislature enacted House Bill 2263/Senate Bill 2196 (the "Act"), which includes the Cascading Bans, Act §§ 39-15-216(c)(1)-(12), (h), and the Reason Bans, *id.* §§ 39-15-217(b)-(d) (together, the "Bans"). The Cascading Bans criminalize the provision of abortion care as soon as approximately 6 weeks from the date of a person's last menstrual period ("LMP") and then at later specified gestational ages. *Id.* §§ 39-15-216(c)(1)-(12). The Reason Bans criminalize the provision of abortion care when the provider "knows" that an abortion is being sought "because of" the race or sex of the fetus, or "a prenatal diagnosis, test, or screening indicating Down syndrome or the potential for Down syndrome." *Id.* §§ 39-15-217(b)-(d). The Bans have no exception for rape, incest, or if the fetus has a lethal fetal condition. A violation of the Bans is a Class C felony, *id.* §§ 39-15-216(b)(2), 217(f), which carries a penalty of imprisonment up to 15 years and a fine as high as $10,000, *see* Tenn. Code Ann. § 40-35-111(b)(3). A violation likewise

subjects physicians to licensure penalties, including revocation, *see* Tenn. Code Ann. §§ 63-6-101(a)(3), 63-6-214(b); Tenn. Comp. R. & Regs. 0880-02-.12(1), and subjects health centers licensed as ambulatory surgical treatment centers (ASTCs) to licensure penalties, Tenn. Code Ann. § 68-11-207(a)(3); Tenn. Comp. R. & Regs. 1200-08-10-.03(1)(d).

The only affirmative defense to the Bans is, if "in the physician's reasonable medical judgment, a medical emergency prevented compliance with the provision." Act §§ 39-15-216(e)(1), 217(e)(1). By definition, "medical emergency" includes only those conditions that, "in the physician's good faith medical judgment, based upon the facts known to the physician at the time, so complicate[] the [person]'s pregnancy as to necessitate the immediate performance or inducement of an abortion in order to prevent the death of the pregnant [person] or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant [person] that delay in the performance or inducement of the abortion would create." Act §§ 39-15-216(a)(4), 217(a)(3) (incorporating Tenn. Code Ann. § 39-15-211(a)(3)).

After considering the parties' submissions, the district court granted a preliminary injunction. July 24, 2020 PI Order R.42, PageID#769; July 24, 2020 PI Order Memorandum ("PI Order Mem."), R.41, PageID#767 As to the Cascading Bans, the district court found that Plaintiffs had established a likelihood of success

on their substantive due process claim. PI Order Mem., R.41, PageID#757. The Court affirmed this ruling, Op. 22, and the State does not seek en banc review as to the Panel's ultimate conclusion on the Cascading Bans. State Pet. 6-7. As to the Reason Bans, the district court found that Plaintiffs had established a likelihood of success on their claim that the Reason Bans are unconstitutionally vague, PI Order Mem., R.41, PageID#761, and the Court affirmed this holding, Op. 30. The district court also found that the Bans were unconstitutional for the additional reason that the medical emergency affirmative defenses set an unconstitutionally vague mixed subjective-objective standard. PI Order Mem, R.41, PageID#760. The Court did not reach this issue. Op. 33.

The district court made findings of fact, none of which the Court found to be clearly erroneous. Op. 24-25; Act §§ 39-15-217(b)-(d); Grant Decl. ¶¶ 20-21, R.8-6, PageID##261-62; Looney Decl. ¶ 45, R.8-1, PageID#153; Rovetti Decl. ¶ 23, R.8-4, PageID#244; Terrell Decl. ¶ 19, R.8-5, PageID#252.

These facts include:

- Geneticists directly refer patients with fetal diagnoses or early screenings indicating a possible fetal diagnosis, including patients who have a fetal diagnosis of Down syndrome or the potential for such a diagnosis, to Plaintiffs. PI Order Mem., R.41, PageID##735, 759-60; Looney Decl. ¶¶ 43, 48, R.8-1, PageID##152, 154; Looney Second

Supp. Decl. ¶ 3, R.71-1, PageID##973-74; Terrell Decl. ¶ 22, R.8-5, PageID#253; Terrell Supp. Del. ¶ 7, R.71-2, PageID#979.

- Plaintiffs sometimes receive patient medical records that indicate a fetal diagnosis or potential diagnosis. PI Opinion, R.41, PageID##740, 750, 759-60; Opinion 13, 24; Looney Decl. 43, R.8-1, PageID#152; Looney Supp. Decl. ¶ 3, R.34-1, PageID#613; Looney Second Supp. Decl. ¶ 4, R.71-1, PageID#973; Terrell Decl. ¶ 22, R.8-5, PageID#253.
- Patients tell Plaintiffs of a fetal diagnosis they received from another health care provider. PI Order Mem., R.41, PageID##735, 739; Op. 9; Looney Decl. ¶ 43, R.8-1, PageID#152. Additionally, patients of advanced maternal age have expressed concerns about genetic conditions, including Down syndrome. PI Order Mem., R.41, PageID##735, 739-42, 760; Op. 8, 26; Looney Decl. ¶ 47, R.8-1, PageID#154; Terrell Decl. ¶ 21, R.8-5, PageID#253; Grant Decl. ¶ 22, R.8-6, PageID#262.
- Plaintiffs can sometimes see an indication of a potential fetal diagnosis of Down syndrome on an ultrasound prior to an abortion. PI Order Mem., R.41, PageID#750; Looney Second Supp. Decl. ¶ 6; R.71-1, PageID#974.

- When deciding to have an abortion in the context of a fetal diagnosis, many patients do so not just because of the diagnosis, but also because they feel they lack necessary resources—financial, medical, educational, or emotional—to parent a child with disabilities, especially while raising other children. PI Order Mem., R.41, PageID##735, 740; Op. 6, 9, 26; Looney Decl. ¶ 43, R.8-1, PageID#152
- Pursuant to her hospital's policy, Dr. Zite provides abortion care to patients who have a confirmed diagnosis of Down syndrome when it is accompanied by another severe fetal condition. PI Order Mem., R.41, PageID##736-38; Op. 6, 8; Zite Decl. ¶ 12, R.8-3, PageID#207; Zite Supp. Decl. ¶ 5, R.71-3, PageID#982-83.
- Patients sometimes mention the race or sex of the fetus during counseling with Plaintiffs. PI Order Mem., R.41, PageID##735, 739-42, 760; Looney Decl. ¶ 46, R.8-1, PageID#153. Patients sometimes ask about the sex during an ultrasound. PI Order Mem., R.41, PageID#735, 740, 750; Op. 13, 24, 26; Looney ¶ 46, R.8-1, PageID#153; Looney Supp. Decl. ¶ 4, R.34-1, PageID#613; Rovetti Decl. ¶ 23, R.8-4, PageID#244; Grant Decl. ¶ 22, R.8-6, PageID#262; Terrell Decl. ¶ 20, R.8-5, PageID#252-53.

The Court concluded that the district court appropriately "rel[ied] on the extensive record" in holding that it is unclear how the Reason Bans apply in these situations. Op. 24.

The State argued that the term "knows" operates as a clarifying scienter requirement and that the term "because of" imports a standard of but-for causation. Op. 24. The Court concluded, however, that the district court correctly held that these attempts to clarify the statute "left many questions unanswered" as to how the statute would operate in the above-described recurring circumstances. Op. 24-25 (citing PI Order Mem., R.41, PageID##760-61). Given this lack of clarity, the Court concluded that the district court correctly held that Plaintiffs justifiably fear arbitrary enforcement whenever a prohibited reason is referenced or implicated during a patient's care—especially "given the 'open hostility' toward abortion providers" and the State's insistence "that the problem would be addressed 'by the requirement of proof beyond a reasonable doubt.'" Op. 25 (citations omitted). The Court found unpersuasive the State's examples of other criminal laws that require knowledge of a third party's state of mind because they do not "necessitate the additional analysis of 'but-for' causation of a third party in the way that [the Reason Bans] require[]." Op. 27.

Given that Plaintiffs' substantive due process challenge to the Reason Bans was not addressed in the appealed order, the Court declined to "address" that claim

"in the first instance." Op. 31. The Court did note that there were indications that the State's interests in enacting the Reason Bans were pretextual. *Id.*

The Court concluded that the district court correctly enjoined the Cascading Bans as contrary to *Planned Parenthood of Southeastern Pennsylvania v. Casey* because a law that "criminalizes *all kinds* of abortion at *any* stage pre-viability poses more than a substantial obstacle, it creates an impossibility." Op. 20 (emphasis in original). The Court did not find compelling the State's assertions that it raised interests that would justify at least some of the Cascading Bans. *Id.* The Court noted, however, that if it "were to consider the State's interests, as they request," there were questions going to whether the State's asserted interests were pretextual given that the "legislative history indicate[d] . . . that the bill was passed with knowledge that it was unconstitutional." Op. 21. The Court found it unnecessary to decide whether the medical-emergency provisions are constitutional because the "injunction on other grounds moots the issue." Op. 33.

ARGUMENT

As Rule 35 makes clear, an en banc rehearing is "not favored and ordinarily will not be ordered." Fed. R. App. P. 35(a). There are only two exceptions to this general rule: rehearing en banc may be appropriate if "consideration is necessary to secure or maintain uniformity of the court's decisions," or if "the proceeding involves a question of exceptional importance." *Id.* The Sixth Circuit's analog rule

confirms that "[a] petition for rehearing en banc is an extraordinary procedure intended to bring to the attention of the entire court a precedent-setting error of exceptional public importance or an opinion that directly conflicts with Supreme Court or Sixth Circuit precedent." 6th Cir. I.O.P. Rule 35(a). Such an extraordinary procedure is not warranted to correct "alleged errors in the determination of state law or in the facts of the case (including sufficient evidence), or errors in the application of correct precedent to the facts of the case." *Id.* For the reasons discussed below, the State's petition does not come close to overcoming the high bar for en banc review. The Court's decision is consistent with this Court's and the Supreme Court's precedent, and the State's request for rehearing en banc should be denied.

I. The Court's Conclusion that the Reason Bans Are Likely Vague Is Consistent with Precedent.

The Court correctly affirmed the district court's holding that the Reason Bans are likely vague, warranting a preliminary injunction. Specifically, the Court held that precedent, including *United States v. Williams* and *United States v. Paull*, supports the district court's conclusion that the Reason Bans are vague because they impose liability based on a uniquely ambiguous standard. The Court further held that the Reason Bans are not analogous to any statute identified by the State and "le[ave] many questions unanswered," including in situations where a prohibited reason is "one of many reasons," a "patient's file notes a Down syndrome diagnosis," and a

"patient makes an inquiry regarding the sex of the fetus." Op. 24, 26. The Court determined that the State's arguments failed to shed light on the operation of the law in these and many other circumstances, and thus the district court was well within its discretion to determine that the Reason Bans should be enjoined.

As the Court explained, the Supreme Court made clear in *Williams* that there is a key difference between statutes imposing liability based on an incriminating fact that may be difficult to determine versus vague laws, such as the Reason Bans, which impose liability based on an incriminating fact that is itself "'indetermina[te].'" Op.at 26 (quoting *Williams*, 553 U.S. at 306). This Circuit has made the same distinction—it is one thing where "what is illegal" is clear; it is another matter altogether if "a person cannot read the statute and determine what is illegal." *Paull*, 551 F.3d at 525; Op. 26.

The Court correctly concluded that the Reason Bans fall in the latter category. Op. 27 (citing *Williams*, 553 U.S. at 306). This is because whether a doctor "knows" that a patient is seeking an abortion "because of" a prohibited reason is simply not a binary, "true or false" determination posing "clear questions of fact," as was the case with the statutes upheld in *Williams* and *Paull*, Op. 27, despite the State's conclusory statements to the contrary, States Pet. 10. As the Court explained, the Reason Bans do not ask whether a doctor knows a patient's intent; rather, the Reason Bans ask whether the doctor knows the motivations underlying that intent *and*—per the

State's articulation of the law—the patient's but-for motivations. Op. 27. As the Court pointed out, neither the State nor the dissent identified an analogous statute.[1] Op. 27 ("None of the State's—or the dissent's—examples of other criminal laws that require knowledge of another person's state of mind—rape, federal conspiracy, assisted suicide—necessitate the additional analysis of 'but-for' causation of a third party in the way that section 217 requires.").

As the Court further explained, the Reason Bans are also distinct from laws that may require a factfinder to consider the intent of a third party like aiding and abetting a hate crime because those laws involve "conduct by a third party that has already been determined"—the committing of a crime by the third party. Op. 27-28. With the Reason Bans, "on the other hand, patients whose subjective intent are at issue are not on trial," and their subjective intent is not predetermined. *Id.*

The Court correctly rejected the State's argument that the term "knows" clarifies the statute, because, while a knowledge requirement "*may* mitigate a law's vagueness," *Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S.

[1] As the Court concluded, the Reason Bans are distinguishable from the reason ban at issue in *Preterm*, which used the language "in whole or in part." *See* Op. 23. The State's interpretation of the law as importing "but for" causation also makes the Reason Bans unique among all other reason bans. *See, e.g.*, Ark. Code Ann. §§ 20-16-1904(a), 2103(a); Ind. Code §§ 16-34-4-4; Kan. Stat. Ann. § 65-6726; Ky. Rev. Stat. Ann. § 311.731; La. Stat. Ann. § 40:1061.1.2; Mo. Rev. Stat. §§ 188.038; N.D. Cent. Code §§ 14-02.1-04.1(1); Ohio Rev. Code Ann. §§ 2919.10, 101; Okla. Stat., tit. 63 § 1-731.2(B); 18 Pa. Cons. Stat. § 3204(c); Utah Code Ann. § 76-7-302.4.

489, 499 (1982) (emphasis added), it cannot do so *here*, because "the distinct wording of this law requires that a doctor 'know the motivations underlying the action of *another* person to avoid prosecution,' while simultaneously evaluating whether the decision is 'because of' that subjective knowledge." Op. 25 (quoting PI Order Mem., R.41, PageID##761). For the same reason, the Reason Bans are not akin to the statute at issue in *Gonzales v. Carhart*, where the Supreme Court found that criminal liability was premised on "relatively clear guidelines" and "objective criteria," and merely noted that the statute's scienter requirements provided additional protection against vagueness. 550 U.S. 124, 149 (2007).

Further, as the Court determined, given that knowledge under Tennessee law can be proven by circumstantial evidence, the State's assertion that the doctor must "actually know," State Pet. 11, offers no protection. Op. 29. Rather, as the Court found, circumstances unknown to the doctor could be used by a prosecutor to bring criminal charges against a physician acting in good faith. *Id.*

The State portrays the key questions left unanswered by the Reason Bans, Op. 27, as mere "hypotheticals," State Pet. 11. But, as explained by the Court, and as set forth above, *see supra* at 5-7, these are not imaginary situations—these are recurring factual circumstances, detailed in Plaintiffs' evidence and credited by the district court, where it is not clear whether providing an abortion would be legal. For this reason, the Court concluded that Plaintiffs are chilled in providing abortions in these

circumstances, infringing on constitutional freedoms. Op. 29. Because precedent forecloses upholding laws "so vague that they require persons to steer so clear of conduct that it infringes upon Constitutional rights," the Court correctly concluded that the Reason Bans were properly enjoined. Op. 29 (citing *Hoffman Estates*, 455 U.S. at 498-99).

The unique structure of this law and the State's shifting narrative and continued inability to describe how this law will operate in common situations confirmed to the Court that Plaintiffs correctly fear arbitrary enforcement, particularly given the hostility toward abortion providers in Tennessee. Op. 25; *see also Kolender v. Lawson*, 461 U.S. 352, 358 (1983). Given that precedent is also "very clear that the resolution of an ambiguous law cannot fall to juries," the Court affirmed the district court's conclusion. Op. 29 (citing *Grayned v. City of Rockford*, 408 U.S. 104, 109 (1972)).

II. This Court Should Deny the State's Invitation to Review Dicta.

En banc review is not appropriate to address the Court's dicta regarding the State's interests. The State takes issue with the Court's query of whether the interests the State asserts in defending the Bans are legitimate, including whether the Cascading Bans were intended to directly challenge Supreme Court precedent, Op. 21, and whether the State's purported interest in preventing discrimination was legitimate given false assumptions made in the legislative findings and Tennessee's

failure to take other actions that would prevent systemic discrimination, *id.* But this commentary is clear dicta because it is not necessary for the judgment. *United States v. Jenkins*, 4 F.3d 1338, 1345 n.8 (6th Cir. 1993), *cert. denied*, 511 U.S. 1034 (Apr. 18, 1994). As dicta, it is not binding on other panels, *id.*, and is not an appropriate basis for granting en banc review, *United States v. Burdeau*, 180 F.3d 1091, 1091-92 (Mem.) (9th Cir. 1999) (Tashima, J., concurring in the denial of rehearing en banc) ("[T]his is the third recent occasion on which the court has denied (or rejected) taking a case en banc merely to 'correct' statements in opinions, as opposed to their holdings or judgments. And for sound reason."); *see also E.E.O.C. v. Ind. Bell Tel. Co.*, 256 F.3d 516, 529 (7th Cir. 2001) (en banc) (Posner, J., concurring) ("[W]e do not take cases en banc merely because of disagreement with a panel's decision, or rather a piece of a decision").

The Court's dicta are also not contrary to precedent. The State may not have to produce evidence to support that it had a rational basis to act, State Pet. 15, but an interest that is clear pretext cannot survive a rational basis analysis. *Kelo v. New London.*, 545 U.S. 469, 491 (2005) (a law fails rational basis review where it is "clearly intended to injure a particular class of private parties, with only incidental or pretextual public justifications."). If the State were correct that courts cannot examine whether a state interest is pretextual or solely intended to challenge Supreme Court precedent, states could simply pass intentionally unconstitutional

laws and merely assert that they have a rational basis. These propositions disregard stare decisis altogether. *June Med. Servs. LLC. v. Russo*, 140 S. Ct. 2103, 2134 (2020) ("[F]or precedent to mean anything, the doctrine must give way only to a rationale that goes beyond whether the case was decided correctly.") (Roberts, C.J., concurring).

III. Since the Panel Did Not Rely on *Voinovich*, Revisiting That Case Is Not Grounds for En Banc Review.

This case does not present an opportunity to revisit *Voinovich*. As the State acknowledges, Pet. 15, the Court did not reach Plaintiffs' claim that the Bans' medical emergency affirmative defenses are unconstitutionally vague in light of *Colautti v. Franklin*, 439 U.S. 379 (1979), and *Women's Med. Pro. Corp. v. Voinovich*, 130 F.3d 187 (6th Cir. 1997), *cert. denied*, 523 U.S. 1036 (1998). *See* Op. 33. As a result, it would be inappropriate to grant the State's petition on this issue. While the State asserts the district court erred in relying on *Voinovich*, the Court did not and could not have committed an "alleged error[] . . . in the application of correct precedent to the facts of the case" because the Court did not reach the argument. 6th Cir. I.O.P. Rule 35(a) This is thus not one of the "most compelling circumstances" in which en banc consideration is warranted.[2] *Mitts v. Bagley*, 626

[2] The disagreement the State notes, State Pet. 17, does not concern the fact pattern presented in this case and in *Voinovich*—a "combination of . . . objective and subjective standards." 130 F.3d at 205. The Seventh Circuit has noted that

F.3d 366, 370 (6th Cir. 2010) (Mem.) (Sutton, J., concurring) (internal citation omitted).

CONCLUSION

For the foregoing reasons, the Court should deny the State's Petition for Rehearing En Banc.

Dated: October 26, 2020

Respectfully submitted,

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commentary in *Voinovich* extending beyond this circumstance is largely dicta. *Karlin v. Foust*, 188 F.3d 446, 463 (7th Cir. 1999) ("[T]he Sixth Circuit in [*Voinovich*] had no occasion to pass on the constitutional sufficiency of an objective standard alone. Therefore we consider much of the court's analysis on this point as dicta . . . .").

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CERTIFICATE OF COMPLIANCE

I certify that the foregoing complies with the type-volume limitation of Fed. R. App. P. 35(b)(2)(A), (e) because it contains 3,897 words, excluding the items exempted by Fed. R. App. P. 32(f). This document complies with the typeface and the type-style requirements of Fed. R. App. P. 32(a)(5)-(6), (c)(2), because this document has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

Dated: October 26, 2021

/s/ *Jessica Sklarsky*
Jessica Sklarsky

CERTIFICATE OF SERVICE

I hereby certify that on October 26, 2021, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit by using the CM/ECF system. I certify that counsel for the Defendants-Appellants are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ *Jessica Sklarsky*
Jessica Sklarsky