

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

JACKSON WOMEN’S HEALTH
ORGANIZATION, on behalf of itself and its
patients,

and

SACHEEN CARR-ELLIS, M.D., M.P.H., on behalf
of herself and her patients,

Plaintiffs,

vs.

Case No. 3:18cv171-CWR-FKB

MARY CURRIER, M.D., M.P.H., in her
official capacity as State Health Officer of
the Mississippi Department of Health,

and

MISSISSIPPI STATE BOARD OF MEDICAL
LICENSURE,

and

KENNETH CLEVELAND, M.D., in his
official capacity as Executive Director of the
Mississippi State Board of Medical Licensure,

Defendants.

PLAINTIFFS’ MOTION FOR TEMPORARY RESTRAINING ORDER

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs, by and through their undersigned counsel, hereby move this Court to issue an immediate temporary restraining order, restraining Defendants, and their agents and successors in office, from enforcing Mississippi House Bill 1510 (“the Act”). The Act unconstitutionally bans abortion after 15 weeks of pregnancy, months prior to viability, in contravention of decades of United States Supreme Court precedent. The Act also has an immediate effective date. Accordingly, without

an order from the Court, Plaintiffs will have to cease providing abortion services after 15 weeks of pregnancy, including canceling an appointment already scheduled for Tuesday, March 20, at 2 pm, causing immediate and irreparable harm to their patients.

In support of this Motion for Temporary Restraining Order, Plaintiffs respectfully submit the following documents:

- Memorandum of Law in Support of Plaintiffs' Motion for Temporary Restraining Order; and,
- Declaration of Sacheen Carr-Ellis in Support of Plaintiffs' Motion for Temporary Restraining Order.

The Attorney General's Office has been informed by telephone of this motion and will be receiving it through ECF upon filing. The State Defendants were served with process this afternoon

Respectfully submitted this 19th day of March, 2018.

/s/ Robert B. McDuff

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*Pro Hac Vice Application to be Filed

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of Plaintiffs' Motion for Temporary Restraining Order and the Declaration of Sacheen Carr-Ellis in Support of Plaintiffs' Motion for Temporary Restraining Order are being served through the Court's ECF system on counsel for the defendants:

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This the 19th day of March, 2018.

/s/ Robert B. McDuff
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MISSISSIPPI STATE BOARD OF MEDICAL
LICENSURE,

and

KENNETH CLEVELAND, M.D., in his
official capacity as Executive Director of the
Mississippi State Board of Medical Licensure,

Defendants.

**DECLARATION OF SACHEEN CARR-ELLIS, M.D., M.P.H., IN SUPPORT OF
PLAINTIFFS’ MOTION FOR TEMPORARY RESTRAINING ORDER**

Sacheen Carr-Ellis, M.D., M.P.H., declares and states as follows:

1. I am a board-certified obstetrician/gynecologist (“ob/gyn”) licensed to practice medicine in Mississippi. I received my M.D. from Albany Medical College in 1999. After my residency in obstetrics and gynecology, I completed a fellowship in family planning at Boston

University Medical Center in Boston, Massachusetts, which included training in abortion. I also hold a master's degree in public health from Boston University.

2. I have been providing abortion services since 1999. Over the course of my medical career, I have regularly provided both first trimester and second trimester abortions, including abortions after 15 weeks.

3. I submit this declaration in support of Plaintiffs' Motion for Temporary Restraining Order. I have reviewed House Bill 1510 ("the ban"). Enforcement of the ban will harm my patients and force me to choose between providing needed medical care and facing the risk of numerous penalties, including civil penalties and loss of my medical license.

Abortion Care in Mississippi

4. I joined Jackson Women's Health Organization ("the Clinic") in 2014 and became Medical Director in April 2015. To the best of my knowledge, the Clinic is the only regular provider of legal abortion in Mississippi.

5. As Medical Director, I oversee the Clinic's medical practice, including reviewing and establishing medical policies and protocols.

6. I am also one of the Clinic's clinicians and provide contraceptive and abortion services to the Clinic's patients. At the Clinic, I provide medication abortion up to 10 weeks from a patient's last menstrual period ("lmp"), consistent with current evidence-based medical practice, and aspiration (surgical) abortions up to 16 weeks 0 days lmp.

7. Over the last several years, the Clinic has provided more than 2,000 abortions per year. Last year, 78 women received abortions after 14 weeks 6 days lmp.

8. The Clinic is open six days per week, but abortion procedures are typically offered on only two to three days per week. For the week beginning March 19, the Clinic is

scheduled to provide aspiration abortion procedures on Monday and Tuesday. One of the patients scheduled for an abortion procedure on Tuesday, March 20 at 2 pm, will be after 14 weeks 6 days lmp at the time of the procedure. For the week of March 26, the Clinic is scheduled to provide aspiration procedures on Wednesday and Thursday.

9. If the ban takes effect, we will have to stop providing abortions after 14 weeks 6 days lmp, including canceling the appointment of the patient already scheduled for Tuesday, because we cannot risk the civil and other penalties that the ban imposes. This patient will not be able to obtain an abortion in Mississippi. She will either be forced to carry her pregnancy to term against her will or have to leave the state to obtain care.

Abortion Is Safe and Essential to Women's Well-Being

10. Abortion is a common medical procedure. About one in four American women will have an abortion in her lifetime.

11. Women seek abortion services for a variety of medical, familial, economic, and personal reasons. Most are mothers who have decided that they cannot parent another child at that time, and some are young women who do not feel ready to carry a pregnancy to term because they want to pursue educational or work opportunities. Others face serious health issues that make it dangerous to carry a pregnancy to term; are coping with abusive relationships; are pregnant as a result of rape, sexual assault, or incest; or have received a diagnosis of a fetal anomaly.

12. Abortion is one of the safest medical procedures in the United States. Complication rates for abortion, including after 15 weeks, are similar to or lower than for other outpatient procedures.

13. Further, the risk of death associated with childbirth is approximately 14 times higher than that associated with abortion, and every pregnancy-related complication is more common among women having live births than among those having abortions. In particular, Mississippi has one of the highest pregnancy-related maternal death rates in the country, more than twice the national rate: in 2010-2012, it was 39.7 deaths per 100,000 live births and 54.7 deaths per 100,000 live births among Black women. Pregnancy-Related Maternal Mortality, Mississippi, 2011-2012; available at http://msdh.ms.gov/msdhsite/_static/resources/5631.pdf.

14. A woman who is pregnant should have the ability to make the decision that is best for her about the course of her pregnancy, based on her own values and goals for her life. Additionally, access to safe and legal abortion benefits the health and wellbeing of patients and their families. The availability of abortion enables patients not to forego educational and economic opportunities due to unplanned childbirth, to provide care to existing family members, to avoid raising children with an absent or unwilling partner, and to prevent medical harms that arise from carrying risky pregnancies to term. Over the years, my patients have raised all of these concerns as reasons why they have made the decision to end a pregnancy.

15. The ban prohibits abortions months before viability. Viability is medically impossible at 15 weeks Imp. Based on my education, training, and decades as a practicing ob-gyn, it is my medical opinion that viability does not occur in a normally developing pregnancy until at least 23 weeks Imp.

16. The ban presents me with an impossible choice: to face potential civil penalties and loss of my Mississippi medical license for continuing to safely provide abortion care or to stop providing my patients the care they seek and deserve.

I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in blue ink, appearing to read "Sacheen Carr-Ellis". The signature is fluid and cursive, with a large initial "S" and a long horizontal stroke at the end.

Sacheen Carr-Ellis, M.D., M.P.H.

Executed on March 19, 2018 in Boston, Massachusetts.