

22-20459

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

THE **SATANIC TEMPLE**, INC.
Plaintiffs-Appellants

v.

TEXAS HLTH. AND HUMN SVC. COMM.; and
CECILE **YOUNG**, health commissioner
Defendants-Appellees

On Appeal from the United States District Court
for the Southern District of Texas, Houston Division;
Hon. Charles Eskridge, District Judge, presiding

District Court Case no. 4:21-cv-00387

RECORD ON APPEAL



Matt Kezhaya

Ark. # 2014161

Minn. # 0403196

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Table of contents

Date	Title	Page
NA	Docket	3
09/07/2022	Notice of Appeal	11
09/07/2022	Second TRO Ruling	13
08/30/2022	Letter Requesting Ruling	16
08/22/2022	Third Amended Complaint	22
08/22/2022	Rule 65 Motion	29
08/22/2022	Darcey Ruffalo Affidavit	44
08/22/2022	Ken Paxton Letter	46
08/22/2022	Excerpt from Legislative Debate	48
08/22/2022	TST Pamphlet	51
07/13/2022	Scheduling Order	55

**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Houston)
CIVIL DOCKET FOR CASE #: 4:21-cv-00387**

The Satanic Temple, Inc. et al v. Hellerstedt et al
Assigned to: Judge Charles Eskridge
Cause: 42:1983 Civil Rights Act

Date Filed: 02/05/2021
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

The Satanic Temple, Inc.

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Plaintiff

Ann Doe

represented by **Matt Kezhaya**
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ATTORNEY TO BE NOTICED

Bradley David Ryynanen
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ATTORNEY TO BE NOTICED

V.

Defendant

John William Hellerstedt, MD
*in his official capacity as Executive
Commissioner of the Department of State
Health Services
TERMINATED: 07/13/2022*

represented by **Christopher D. Hilton**
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Defendant

**Texas Department of State Health
Services**
TERMINATED: 07/13/2022

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*LEAD ATTORNEY
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Francesca Andrea Di Troia
(See above for address)
*TERMINATED: 03/17/2021
LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Benjamin Sheffield Walton
(See above for address)
*TERMINATED: 09/26/2022
ATTORNEY TO BE NOTICED*

Defendant

**Planned Parenthood Center for Choice,
Inc.**
TERMINATED: 07/13/2022

Defendant

**Texas Health and Human Service
Commission**

represented by **Christopher D. Hilton**
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Defendant**Cecile Young**

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Ryan Glen Kercher

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Heather Lee Dyer

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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/05/2021	1	COMPLAINT against The Satanic Temple, Inc., Ann Doe (Filing fee \$ 402 receipt number 0541-25923323) filed by The Satanic Temple, Inc., Ann Doe. (Attachments: # 1 Exhibit Ex. A Ritual Pamphlet, # 2 Exhibit Ex. B Demand Letter)(Ryynanen, Bradley) (Entered: 02/05/2021)
02/05/2021	2	First MOTION for Temporary Restraining Order by Ann Doe, The Satanic Temple, Inc., filed. Motion Docket Date 2/26/2021. (Attachments: # 1 Affidavit Ex. A - Declaration of Ann Doe, # 2 Exhibit Ex. A-1 - 7 Tenets, # 3 Exhibit Ex. A-2 - Demand Letter, # 4 Exhibit Ex. B - Ritual Pamphlet, # 5 Proposed Order Proposed Order on TRO)(Ryynanen, Bradley) (Entered: 02/05/2021)
02/05/2021	3	Request for Issuance of Summons as to All Plaintiffs, filed. (Attachments: # 1 Supplement Hellerstedt Summons, # 2 Supplement Texas DSHS Summons, # 3 Supplement Planned Parenthood Summons)(Ryynanen, Bradley) (Entered: 02/05/2021)
02/05/2021	4	MOTION for Matthew A. Kezhaya to Appear Pro Hac Vice by Ann Doe, The Satanic Temple, Inc., filed. Motion Docket Date 2/26/2021. (Ryynanen, Bradley) (Entered: 02/05/2021)
02/05/2021	5	RECUSAL ORDER. Judge Keith P Ellison recused. Deadlines in scheduling orders

		subsist. Court settings are vacated.(Signed by Judge Keith P Ellison) Parties notified. (arrivera, 4) (Entered: 02/05/2021)
02/05/2021	6	NOTICE of Reassignment. Case reassigned to Judge Andrew S Hanen. Judge Keith P Ellison no longer assigned to the case. Parties notified, filed. (hcarr, 4) (Entered: 02/05/2021)
02/06/2021	7	RECUSAL ORDER. Judge Andrew S Hanen recused. Deadlines in scheduling orders subsist. Court settings are vacated.(Signed by Judge Andrew S Hanen) Parties notified. (jdav, 4) (Entered: 02/06/2021)
02/06/2021	8	NOTICE of Reassignment to Judge Charles Eskridge. All court settings are vacated Judge Andrew S Hanen no longer assigned to the case. Parties notified, filed. (jdav, 4) (Entered: 02/06/2021)
02/06/2021	9	ORDER denying 2 First MOTION for Temporary Restraining Order.(Signed by Judge Charles Eskridge) Parties notified.(jengonzalez, 4) (Entered: 02/06/2021)
02/08/2021	10	Summons Issued as to John William Hellerstedt, MD, Planned Parenthood Center for Choice, Inc., Texas Department of State Health Services. Issued summons delivered to plaintiff by NEF, filed. (Attachments: # 1 Summons, # 2 Summons)(JacquelineMata, 4) (Entered: 02/08/2021)
02/11/2021	11	ORDER granting 4 Motion for Matthew Kezhaya to Appear Pro Hac Vice.(Signed by Judge Charles Eskridge) Parties notified.(jengonzalez, 4) (Entered: 02/12/2021)
02/12/2021	12	First AMENDED COMPLAINT against The Satanic Temple, Inc., Ann Doe filed by The Satanic Temple, Inc., Ann Doe. (Attachments: # 1 Exhibit Ex. A Ritual Pamphlet, # 2 Exhibit Ex. B Demand Letter)(Ryynanen, Bradley) (Entered: 02/12/2021)
02/24/2021	13	ORDER for Initial Pretrial and Scheduling Conference and Order to Disclose Interested Persons. Initial Conference set for 3/31/2021 at 01:30 PM in Courtroom 8B before Judge Charles Eskridge. (Signed by Judge Charles Eskridge) Parties notified.(jengonzalezadi, 4) (Entered: 02/24/2021)
02/25/2021	14	SCHEDULING and DOCKET CONTROL ORDER. Amended Pleadings due by 6/2/2021. Joinder of Parties due by 4/30/2021 Pltf Expert Report due by 11/30/2021. Deft Expert Report due by 1/5/2022. Discovery due by 2/23/2022. Mediation due by 5/10/2022. Dispositive Motion Filing due by 3/25/2022. Non-Dispositive Motion Filing due by 3/25/2022. Joint Pretrial Order due by 6/9/2022. Docket Call set for 7/18/2022 at 09:30 AM before Judge Charles Eskridge.(Signed by Judge Charles Eskridge) Parties notified. (jengonzalez, 4) (Entered: 02/25/2021)
03/05/2021	15	WAIVER OF SERVICE Returned Executed as to John William Hellerstedt, MD served on 3/4/2021, answer due 5/3/2021; Texas Department of State Health Services served on 3/4/2021, answer due 5/3/2021, filed. (Attachments: # 1 Continuation)(Ryynanen, Bradley) (Entered: 03/05/2021)
03/05/2021	16	NOTICE of Appearance by Francesca A. Di Troia on behalf of John William Hellerstedt, MD, Texas Department of State Health Services, filed. (Di Troia, Francesca) (Entered: 03/05/2021)
03/09/2021	17	CERTIFICATE OF INTERESTED PARTIES by John William Hellerstedt, MD, Texas Department of State Health Services, filed.(Di Troia, Francesca) (Entered: 03/09/2021)
03/11/2021	18	CERTIFICATE OF INTERESTED PARTIES by Ann Doe, The Satanic Temple, Inc., filed. (Ryynanen, Bradley) (Entered: 03/11/2021)
03/11/2021	19	Plaintiffs' Certificate of Service of Court Order and Court's Procedures by Ann Doe, The

		Satanic Temple, Inc., filed.(Ryynanen, Bradley) (Entered: 03/11/2021)
03/16/2021	20	Unopposed MOTION for Francesca A. Di Troia to Withdraw as Attorney(Motion Docket Date 4/6/2021.), Unopposed MOTION to Substitute Attorney Christopher Hilton; Benjamin Walton in place of Francesca A. Di Troia by John William Hellerstedt, MD, Texas Department of State Health Services, filed. (Attachments: # 1 Proposed Order)(Di Troia, Francesca) (Entered: 03/16/2021)
03/17/2021	21	ORDER granting 20 Motion to Withdraw as Attorney. Attorney Francesca Andrea Di Troia terminated.(Signed by Judge Charles Eskridge) Parties notified.(jguajardo, 4) (Entered: 03/17/2021)
03/17/2021	22	Agreed MOTION for Continuance of Initial Pretrial Conference by Ann Doe, The Satanic Temple, Inc., filed. Motion Docket Date 4/7/2021. (Attachments: # 1 Proposed Order) (Ryynanen, Bradley) (Entered: 03/17/2021)
03/18/2021	23	ORDER granting 22 Agreed MOTION for Continuance of Initial Pretrial Conference (Joint Discovery/Case Management Plan due by 5/10/2021, Initial Conference reset for 7/14/2021 at 01:30 PM by video before Judge Charles Eskridge)(Signed by Judge Charles Eskridge) Parties notified.(ShoshanaArnow, 4) (Entered: 03/19/2021)
04/30/2021	24	Unopposed MOTION to Amend 12 Amended Complaint/Counterclaim/Crossclaim etc. by Ann Doe, The Satanic Temple, Inc., filed. Motion Docket Date 5/21/2021. (Attachments: # 1 Proposed Order)(Ryynanen, Bradley) (Entered: 04/30/2021)
05/04/2021	25	ORDER granting 24 Motion to Amend. Plaintiffs must supplement the docket with a Notice of Proposed Amended Complaint by 05/27/2021, with indication that Defendants are unopposed to the as-proposed version.(Signed by Judge Charles Eskridge) Parties notified.(jengonzalez, 4) (Entered: 05/04/2021)
05/07/2021	26	Second AMENDED COMPLAINT against Texas Health and Human Service Commission, Cecile Young filed by The Satanic Temple, Inc., Ann Doe.(Ryynanen, Bradley) (Entered: 05/07/2021)
05/10/2021	27	JOINT DISCOVERY/CASE MANAGEMENT PLAN by Ann Doe, The Satanic Temple, Inc., filed.(Ryynanen, Bradley) (Entered: 05/10/2021)
05/28/2021	28	MOTION to Dismiss 26 Amended Complaint/Counterclaim/Crossclaim etc. by Texas Health and Human Service Commission, Cecile Young, filed. Motion Docket Date 6/18/2021. (Attachments: # 1 Proposed Order)(Hilton, Christopher) (Entered: 05/28/2021)
06/03/2021	29	NOTICE of Resetting. Parties notified. Initial Conference reset for 8/5/2021 at 01:30 PM in Courtroom 8B before Judge Charles Eskridge, filed. (jengonzalezadi, 4) (Entered: 06/03/2021)
06/18/2021	30	RESPONSE in Opposition to 28 MOTION to Dismiss 26 Amended Complaint/Counterclaim/Crossclaim etc. , filed by Ann Doe, The Satanic Temple, Inc.. (Ryynanen, Bradley) (Entered: 06/18/2021)
06/28/2021	31	REPLY in Support of 28 MOTION to Dismiss 26 Amended Complaint/Counterclaim/Crossclaim etc. , filed by Texas Health and Human Service Commission, Cecile Young. (Hilton, Christopher) (Entered: 06/28/2021)
08/03/2021	32	NOTICE of Resetting. Parties notified. Initial Conference set for 8/6/2021 at 01:30 PM by video before Judge Charles Eskridge, filed. (jengonzalez, 4) (Entered: 08/03/2021)
08/06/2021	33	MINUTE ENTRY ORDER: Minutes for initial conference. Parties present by videoconference. The Court addressed the scheduling order and the parties' joint discovery and case management plan. Dkts 14, 27.The Court addressed the motion to dismiss filed

		by Defendants Texas Health and Human Services Commission and Cecile Young. Dkt 28. Plaintiffs The Satanic Temple, Inc and Ann Doe withdrew their claims asserted under Count 2 as to the Equal Protection Clause. They also noted no objection to the dismissal of their claims under Count 4 as to the Texas Religious Freedom and Restoration Act for lack of subject matter jurisdiction. Counts 2 and 4 were DISMISSED WITHOUT PREJUDICE. Without objection, Texas HHSC was DISMISSED from this action because the TRFRA was the only claim asserted against it. Argument was heard on the motion to dismiss. Resolution was taken under advisement Appearances: Matthew A. Kezhaya, Bradley David Ryyananen, f/ Plaintiff; Christopher D. Hilton f/ Defendants. (Signed by Judge Charles Eskridge) Parties notified.(jengonzalez, 4) (Entered: 08/09/2021)
12/20/2021	34	ORDER DENYING MOTION TO DISMISS WITHOUT PREJUDICE AND STAYING CASE re: 28 MOTION to Dismiss 26 Amended Complaint/Counterclaim/Crossclaim etc. . Case stayed.(Signed by Judge Charles Eskridge) Parties notified.(jengonzalez, 4) (Entered: 12/20/2021)
06/03/2022	35	NOTICE of Appearance by Ryan G. Kercher on behalf of Texas Health and Human Service Commission, Cecile Young, filed. (Kercher, Ryan) (Entered: 06/03/2022)
06/03/2022	36	NOTICE <i>Attorney Vacation Notification</i> by Texas Health and Human Service Commission, Cecile Young, filed. (Kercher, Ryan) (Entered: 06/03/2022)
07/08/2022	37	STATUS REPORT by Cecile Young, filed.(Kercher, Ryan) (Entered: 07/08/2022)
07/13/2022	38	ORDER re: A hearing on any motions will be set as necessary in the Court's discretion. This action is otherwise STAYED until further order. Discovery will not proceed during pendency of the above motion practice absent further order. (Signed by Judge Charles Eskridge) Parties notified.(jengonzalez, 4) (Entered: 07/13/2022)
08/22/2022	39	AMENDED COMPLAINT against All Plaintiffs filed by The Satanic Temple, Inc., Ann Doe.(Ryyananen, Bradley) (Entered: 08/22/2022)
08/22/2022	40	MOTION for Temporary Restraining Order by Ann Doe, The Satanic Temple, Inc., filed. Motion Docket Date 9/12/2022. (Attachments: # 1 Appendix Appendix to Plaintiffs' Rule 65 Motion)(Ryyananen, Bradley) (Entered: 08/22/2022)
08/30/2022	41	NOTICE of <i>Letter Request for Ruling</i> re: 40 MOTION for Temporary Restraining Order by Ann Doe, The Satanic Temple, Inc., filed. (Ryyananen, Bradley) (Entered: 08/30/2022)
09/07/2022	42	ORDER re: The first factor needn't be addressed at present, because Plaintiffs don't even attempt to establish the second, third, or fourth factors. As such, they in no way demonstrate entitlement to a TRO or preliminary injunction. The motion by Plaintiffs The Satanic Temple Inc and Ann Doe for temporary restraining order and preliminary injunction is DENIED. Dkt 40.(Signed by Judge Charles Eskridge) Parties notified. (jengonzalez, 4) (Entered: 09/07/2022)
09/07/2022	43	NOTICE OF APPEAL to US Court of Appeals for the Fifth Circuit by The Satanic Temple, Inc. (Filing fee \$ 505, receipt number ATXSDC-28737417), filed. (Kezhaya, Matt) (Entered: 09/07/2022)
09/08/2022	44	Clerks Notice of Filing of an Appeal. The following Notice of Appeal and related motions are pending in the District Court: 43 Notice of Appeal. Fee status: Paid. Reporter(s): ERO, filed. (Attachments: # 1 Notice of Appeal) (SaraCelis, 1) (Entered: 09/08/2022)
09/08/2022		Appeal Review Notes re: 43 Notice of Appeal. Fee status: Paid. The appeal filing fee has been paid.Hearings were held in the case. DKT13 transcript order form(s) due within 14 days of the filing of the notice of appeal. Number of DKT-13 Forms expected: 1, filed. (SaraCelis, 1) (Entered: 09/08/2022)

09/08/2022		Notice of Assignment of USCA No. 22-20459 re: 43 Notice of Appeal, filed.(SaraCelis, 1) (Entered: 09/08/2022)
09/19/2022	45	NOTICE of Appearance by Heather L. Dyer on behalf of Texas Health and Human Service Commission, Cecile Young, filed. (Dyer, Heather) (Entered: 09/19/2022)
09/19/2022	46	MOTION to Dismiss <i>Pursuant to Rules 12(b)(1) and 12(b)(6)</i> by Texas Health and Human Service Commission, Cecile Young, filed. Motion Docket Date 10/11/2022. (Attachments: # 1 Proposed Order)(Kercher, Ryan) (Entered: 09/19/2022)
09/20/2022	47	Unopposed MOTION for Benjamin Walton to Withdraw as Attorney by Texas Health and Human Service Commission, Cecile Young, filed. Motion Docket Date 10/11/2022. (Attachments: # 1 Proposed Order)(Walton, Benjamin) (Entered: 09/20/2022)
09/21/2022	48	NOTICE <i>Transcript order form</i> by The Satanic Temple, Inc., filed. (Kezhaya, Matt) (Entered: 09/21/2022)
09/21/2022	49	DKT13 TRANSCRIPT ORDER REQUEST by Matthew Kezhaya. This is to order a transcript of Hearing on 8/6/21 before Judge Eskridge. Court Reporter/Transcriber: Judicial Transcribers of Texas. This order form relates to the following: 43 Notice of Appeal, filed. (emathis, 4) Electronically forwarded to Judicial Transcribers of Texas on 9/23/22. Estimated completion date: 10/24/22. Modified on 9/23/2022 (RachelWillborg, 4). (Entered: 09/21/2022)
09/26/2022	50	ORDER granting 47 Unopposed MOTION for Benjamin Walton to Withdraw as Attorney. Attorney Benjamin Sheffield Walton terminated.(Signed by Judge Charles Eskridge) Parties notified.(jengonzalez, 4) (Entered: 09/26/2022)
09/29/2022	51	MOTION to Strike 46 MOTION to Dismiss <i>Pursuant to Rules 12(b)(1) and 12(b)(6)</i> by Ann Doe, The Satanic Temple, Inc., filed. Motion Docket Date 10/20/2022. (Kezhaya, Matt) . (Entered: 09/29/2022)
10/10/2022	52	RESPONSE to 46 MOTION to Dismiss <i>Pursuant to Rules 12(b)(1) and 12(b)(6)</i> filed by The Satanic Temple, Inc.. (Kezhaya, Matt) (Entered: 10/10/2022)
10/11/2022	53	MOTION for Nicholas Henry to Appear Pro Hac Vice by The Satanic Temple, Inc., filed. Motion Docket Date 11/1/2022. (Kezhaya, Matt) (Entered: 10/11/2022)
10/18/2022	54	APPEAL TRANSCRIPT re Initial Conference / Motion Hearing (Via Zoom) held on August 6, 2021 before Judge Charles Eskridge. Court Reporter/Transcriber Judicial Transcribers of Texas, LLC. Ordering Party: Matthew Kezhaya. This transcript relates to the following: 43 Notice of Appeal, 49 Appeal Transcript Request., Release of Transcript Restriction set for 1/17/2023., filed. (mahenry,) (Entered: 10/18/2022)
10/19/2022	55	Notice of Filing of Official Transcript as to 54 Transcript - Appeal,. Party notified, filed. (AntonioBanda, 4) (Entered: 10/19/2022)
10/19/2022	56	REPLY in Support of 46 MOTION to Dismiss <i>Pursuant to Rules 12(b)(1) and 12(b)(6)</i> , filed by Texas Health and Human Service Commission, Cecile Young. (Kercher, Ryan) (Entered: 10/19/2022)
10/20/2022	57	RESPONSE in Opposition to 51 MOTION to Strike 46 MOTION to Dismiss <i>Pursuant to Rules 12(b)(1) and 12(b)(6)</i> , filed by Texas Health and Human Service Commission, Cecile Young. (Kercher, Ryan) (Entered: 10/20/2022)
10/26/2022		Electronic record on appeal certified to the Fifth Circuit Court of Appeals re: 43 Notice of Appeal USCA No. 22-20459, filed.(SaraCelis, 1) (Entered: 10/26/2022)
10/26/2022		Electronic Access to Record on Appeal Provided re: 43 Notice of Appeal to Ryan Glen Kercher, Heather Lee Dyer, Matt Kezhaya. Attorneys of record at the Circuit may

		download the record from the Court of Appeals. (USCA No. 22-20459), filed.(SaraCelis, 1) (Entered: 10/26/2022)
11/14/2022	58	ORDER denying 51 Motion to Strike; striking 51 MOTION to Strike 46 MOTION to Dismiss Pursuant to Rules 12(b)(1) and 12(b)(6) .(Signed by Judge Charles Eskridge) Parties notified.(jengonzalez, 4) (Entered: 11/15/2022)
11/15/2022	59	ORDER TO SHOW CAUSE re: Matt Kezhaya must SHOW CAUSE why his admission to practice pro hac vice before this Court shouldn't be revoked. In doing so, he must fully explain conduct and rulings in the two actions. He must also disclose any other pending or imposed sanctions against him in any court. Such brief by attorney Kezhaya must be filed by 11/25/2022. Defendants may make a responsive filing within seven days of the filing of that brief, if desired. Kezhaya may reply within five days of the filing of that brief, if desired. (Signed by Judge Charles Eskridge) Parties notified.(jengonzalez, 4) (Entered: 11/15/2022)
11/25/2022	60	RESPONSE TO 59 ORDER TO SHOW CAUSE, filed by The Satanic Temple, Inc.. (Attachments: # 1 Exhibit Belle Plaine I - opening brief, # 2 Exhibit Belle Plaine I - response brief, # 3 Exhibit Belle Plaine I - reply brief, # 4 Exhibit Belle Plaine II - opening brief, # 5 Exhibit Boston parties agreement that the Councilors would testify, # 6 Exhibit Boston objection to sanctions, # 7 Exhibit Boston motion to recuse, # 8 Exhibit Boston motion to reconsider, # 9 Exhibit Minnesota no discipline for being mean on the internet) (Kezhaya, Matt) (Entered: 11/25/2022)
11/28/2022	61	Request for frivolity review and for reassignment by The Satanic Temple, Inc. filed. (HeatherCarr, 4) (Entered: 11/30/2022)
11/29/2022	62	ORDER denying 61 Request for frivolity and for reassignment.(Signed by Judge Charles Eskridge) Parties notified.(HeatherCarr, 4) (Entered: 11/30/2022)
12/02/2022	63	RESPONSE to 60 Response to Order to Show Cause,, , filed by Texas Health and Human Service Commission, Cecile Young. (Kercher, Ryan) (Entered: 12/02/2022)

PACER Service Center			
Transaction Receipt			
12/05/2022 16:23:42			
PACER Login:	mkezhaya	Client Code:	
Description:	Docket Report	Search Criteria:	4:21-cv-00387
Billable Pages:	7	Cost:	0.70

4:21-CV-387

IN THE UNITED STATES DISTRICT COURT,
FOR THE SOUTHERN DISTRICT OF TEXAS,
HOUSTON DIVISION

The Satanic Temple, Inc. and Ann Doe,
Plaintiffs-Appellants

v.

Cecile Young, health commissioner,
Defendant-Appellee.

NOTICE OF APPEAL



Matt Kezhaya

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Minn. # 0403196

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Notice of appeal

NOTICE IS GIVEN that The Satanic Temple, Inc. respectfully appeals to the United States Court of Appeals for the Fifth Circuit from this Court's order which denies the motion for a temporary restraining order and a preliminary injunction. Dkt 42 (September 7, 2022); 28 USC § 1292(a)(1).



Respectfully submitted,

Matt Kezhaya

Certificate of service

NOTICE IS GIVEN that I, Matt Kezhaya, efiled the foregoing document by uploading it to the Court's CM/ECF system on September 7, 2022, which sends service to registered users, including all other counsel of record in this cause. *Matt Kezhaya*

ENTERED

September 07, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

THE SATANIC	§	CIVIL ACTION NO.
TEMPLE INC and ANN	§	4:21-cv-00387
DOE,	§	
Plaintiffs,	§	
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
JOHN WILLIAM	§	
HELLERSTEDT MD,	§	
<i>et al,</i>	§	
Defendants.	§	

ORDER

Pending is a motion by Plaintiffs The Satanic Temple Inc and Ann Doe for temporary restraining order and preliminary injunction. Dkt 40. Also under consideration is their intemperate letter demanding a prompt ruling, notwithstanding their prior agreement to different briefing deadlines. Dkt 41.

The parties to this suit filed a joint status report on July 7, 2022, shortly after the Supreme Court’s decision in *Dobbs v Jackson Women’s Health*, 142 S Ct 2228 (2022). See Dkt 37. And that report was itself expressly required by prior order of this Court in anticipation of the *Dobbs* ruling. See Dkt 34.

Plaintiffs there indicated an intention to seek preliminary injunctive relief. Dkt 37 at 2. As such, the status report contained a jointly proposed briefing schedule. The requested schedule would give Plaintiffs until August 22nd to move for preliminary injunctive relief, Defendants until September 5th to respond, and Plaintiffs until September 26th to reply.

The schedule proposed by the parties was adopted without modification by order entered five days after the status report was received. Dkt 38. No disagreement was expressed with these deadlines at the time or since. And in the status report, Plaintiffs neither indicated an intention to seek a temporary restraining order, nor claimed that they faced any emergency that would warrant expedited decision.

On the deadline by which to move for preliminary injunction, Plaintiffs included in their filing a request for a temporary restraining order. Dkt 40. That motion is threadbare. It totals fifteen pages, but pages two through seven speciously present themselves as pictures from a five-act play, with illustrations seemingly intended as some sort of Venn diagrams occupying much of their space. The remaining pages offer little by way of substance.

Nowhere within these pages do Plaintiffs offer an argument as to why a preliminary injunction or TRO is warranted under Rule 65 of the Federal Rules of Civil Procedure. Indeed, nowhere do Plaintiffs even invoke the appropriate standards pertinent to a request for preliminary injunction or TRO—much less seek to demonstrate that those standards have been met. See *Wiley v Harris County District Attorney*, 27 F4th 1125, 1129 (5th Cir 2022); *Garza v Starr County*, 309 F Supp 3d 454, 456 (SD Tex 2018). And most certainly, Plaintiffs nowhere request or attempt to justify expedited consideration of their motion.

And yet Plaintiffs have since filed a letter demanding a ruling on their motion by September 6th, with putative threat to seek unspecified relief before the Fifth Circuit if such demand isn't met. Dkt 41. This isn't well taken for a number of reasons, but most particularly because (i) it's this Court that solicited prompt input from the parties on the forward path of this litigation after *Dobbs*, and (ii) Plaintiffs themselves agreed to a briefing schedule that hasn't even run its course—much less allowed time for considered decision. What's more, Plaintiffs filed their letter despite having acted with minimal urgency

themselves in taking 59 days since the ruling in *Dobbs*, as well as 40 days since this Court entered a briefing schedule setting a deadline, which in no way precluded Plaintiffs from seeking earlier and emergency relief, if any were legitimately necessary.

As to the merits, the burden of persuasion with respect to a TRO or preliminary injunction rests squarely on the party seeking relief. See *Brock Services LLC v Rogillio*, 936 F3d 290, 296 (5th Cir 2019). That includes the familiar showing as to (i) a substantial likelihood of success on the merits, (ii) a substantial threat of irreparable harm if the injunction or TRO isn't granted, (iii) the threatened injury outweighing any harm that the injunction or TRO might cause to the defendant, and (iv) the injunction or TRO not disserving the public interest. *Wiley*, 27 F4th at 1129.

The first factor needn't be addressed at present, because Plaintiffs don't even attempt to establish the second, third, or fourth factors. As such, they in no way demonstrate entitlement to a TRO or preliminary injunction.

The motion by Plaintiffs The Satanic Temple Inc and Ann Doe for temporary restraining order and preliminary injunction is DENIED. Dkt 40.

SO ORDERED.

Signed on September 7, 2022, at Houston, Texas.

A handwritten signature in black ink that reads "Ch R Eskridge". The signature is written in a cursive, somewhat stylized font.

Hon. Charles Eskridge
United States District Judge



August 30, 2022 (Tuesday)

U.S.D.C.; Southern District of Texas (Houston Div.)
ATTN: Hon. Charles Eskridge
Via ECF only

Re: *Satanic Temple v. Young* (4:21-cv-00387) – request for ruling

Dear Judge Eskridge:

On August 22, 2022, we filed a Rule 65 motion (ECF 40) which seeks to direct the relevant State official from enforcing abortion regulations against our congregants’ doctors, assertedly in violation of our congregants’ hybrid Free Speech / Free Exercise rights. *See, generally*, U.S. Const. Amend. I; *Cantwell v. State of Connecticut*, 310 U.S. 296 (1940); *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407 (2022); *cf. also Emp. Div., Dep’t of Hum. Res. of Oregon v. Smith*, 494 U.S. 872, 881–82 (1990) (first theorizing “hybrid rights.”)¹

It has been over a week without a ruling on the matter, so we feel compelled to stress the urgency of this matter. We further feel compelled to give fair notice to the Court of our forthcoming petition for a writ of mandamus, to be filed with the Fifth Circuit. Absent the below-described constitutional crisis being favorably resolved

¹ Although we are hesitant to overcomplicate this case, “Free Parentage” rights are also involved in this powder keg of a case. *Cf. Smith*, 494 U.S. at 882 (distinguishing “a **free exercise claim unconnected with** any communicative activity **or parental right**”) (emphasis added).

beforehand, we anticipate filing the petition next Tuesday (**Sept. 6, 2022**) by **2:00 pm**,² or as soon thereafter as is possible.

It is no melodrama to call this case a “constitutional crisis.” The Texas legislature has authorized State officials to levy official and punitive sanctions against any who assist our congregants in practicing their religion as they see fit. That is *very* illegal. *Ibid.*; *see also Smith*, 494 U.S. 891-908 (O’Connor, J., concurrence).

As adequately addressed in the Rule 65 motion (ECF 40, at 2-7–*Never the Twain Shall Meet*), there is precisely one natural consequence of the offensive statutes: we will be forced to conform to the majority viewpoint, or we will be killed. That is the only natural outcome. We lack the State’s monopoly on violence and we lack the Christians’ numbers to effectuate the requisite political change to protect ourselves. *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 638 (1943) (“One’s right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights **may not be submitted to vote**; they depend on the outcome of no elections”) (emphasis added).

That means the target is firmly affixed to our backs. The Founding generation resolved to protect us by enacting the First Amendment—not coincidentally, the grounds for our complaint. *Compare* ECF 39, at 5-6 *with Lemon v. Kurtzman*, 403 U.S. 602, 622 (1971) (emphasis added):

Ordinarily political debate and division, however vigorous or even partisan, are normal and healthy manifestations of our democratic system of government, but **political division along religious lines was one of the principal evils against which**

² Monday, September 5, is a federal holiday (Labor Day).

the First Amendment was intended to protect.

To the best of our knowledge, all of the relevant statutes are cited in the Rule 65 motion (ECF 40, at 14-15). Based upon preexisting representations by Young’s counsel of record, it is our understanding that Young—personally—is the sole obstruction to our congregants’ fundamental civil rights. If we are mistaken, then the Rules provide appropriate mechanisms for Young to correct our understanding in due course. See FRCP 12(b)(7) (failure to join a required party); FRCP 19(a) (defining “required” parties”); FRCP 12(b)(1) (elemental standing principles require that we attack *all* of the offensive statutes or regulations).

Those case-dispositive questions can be answered later. Right now there is an immediate constitutional crisis in that our congregants are subjected to an ongoing risk of persecution because we think and act differently from majoritarian religious beliefs that, *e.g.*,

- “Thou [the God of Abraham] has granted you [our Texas congregants] life” (ECF 40-1, at 34) (misquoting Job 10:12 (KJV)—should be “Thou hast granted *me* life”); or
- “Abortion is a terrible thing” (ECF 40-1, at 34) implicitly referencing Catholic Catechisms 2270-2275, Jeremiah 1:5, and similar religious texts.³

Indisputably, the question of whether to terminate an unwanted pregnancy is deeply personal, is deeply moral, and is therefore *uniquely* religious. See, *e.g.*, ECF 40-1, at 35 (“We’re talking about,

³ See *Catechisms of the Catholic Church*, pp. 547-49, and religious texts cited therein. Available at <https://www.usccb.org/sites/default/files/flip-books/catechism/548/> (last visited August 30, 2022).

probably, the most **personal, gut-wrenching decision** regardless of whichever side you're on") (emphasis added) (*against*); *id.*, at 36 ("I don't guess there's anything more **visceral**, more **difficult**, as far as issues that we grapple with here, than this one") (emphasis added) (*for*); *see also Jacobson v. Commonwealth of Massachusetts*,⁴ 197 U.S. 11, 29 (1905) (recognizing the "sphere within which the individual may assert the supremacy of his own will, and rightfully dispute the authority of any **human** government,—especially of any free government existing under a written constitution, to interfere with the exercise of that will") (emphasis added).

When *Jacobson* was decided, the notion of Satanists living openly among civil society, free from persecution, was nothing more than a pipe dream. The concept of *openly* defying the authority of God and the Church was 64 years premature. *See* Anton LaVey, *The Satanic Bible* (Avon Books, 1965).⁵ Apparently, it is still premature.

Particularly as pertains to abortion, the common law—unabated by that societal pact we call the Constitution—has always decreed that "life" begins at the "quickenings" (the first recognizable movement of the fetus *in utero*). *Roe v. Wade*, 410 U.S. 113, 132 (1973). *Dobbs* notwithstanding, our ancient social norms—the common law—"developed from a confluence of **earlier** philosophical, theological, and civil and canon law concepts of when life begins." *Roe*, 410 U.S. at

⁴ Again, we hesitate to overcomplicate this case, but *Jacobson* adds "bodily autonomy" to the mish-mash of hybrid fundamental civil rights entailed in this dispute. *See also* Tenet III (we, too, venerate bodily autonomy).

⁵ Doctrinal differences aside, LaVey proffered *some* good ideas. This case will not involve doctrinal disputes, partly because the Court lacks subject matter jurisdiction to entertain the question. *E.g. Gregorio v. Hoover*, 238 F. Supp. 3d 37, 46 (D.D.C. 2017) (adequately explaining the doctrine of judicial abstention from ecclesiastical questions).

132 (emphasis added).⁶

The Christians morally disagree with the concept of terminating an unwanted pregnancy. That is their right. U.S. Const. Amend. I. But it has always been *our* right that “Church and State should be separated.” *Zorach v. Clauson*, 343 U.S. 306, 312 (1952). Before the First Amendment, “**zealous sectarians** entrusted with **governmental power** ... would sometimes **torture, maim** and **kill** those they branded ‘**heretics**,’ ‘**atheists**’ or ‘**agnostics**.’” *Id.*, at 319 (Black, J., dissenting) (emphasis added).

We—the organized party-plaintiff collective of “heretics,” “atheists,” and “agnostics”—have duly notified the Court that “zealous sectarians entrusted with governmental power” have infringed upon our fundamental civil rights. ECF 39; U.S. Const. Amend. I. Those fundamental civil rights are the thin shroud that protects us from being tortured, maimed, and killed. *Lemon*, above.

Christians are not harmed by these offensive statutes. We, on the other hand, see them for what they are: an existential threat targeted directly at us. Because these offensive statutes directly target our ritual, yet leave their ritual unabated, they are invalid as an offense against the law. *Larson v. Valente*, 456 U.S. 228, 244 (1982) (“The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another.”)

The litigation process will play itself out in due time. Between then and now, the people with the guns seek to force us to preen as if we think and act Christian. It therefore falls upon this Court to order the people with the guns to **immediately** stand down. ECF 40, at 14-15; 42 USC § 1983; U.S. Const. Amend. I; *Ex parte Young*, 209 U.S. 123 (1908); *Cantwell*, above, and *Kennedy*, above. If this Court

⁶ “Earlier,” that is, than when Christianity temporarily took over the role of government. *Roe*, at 130 (“Ancient religion did not bar abortion.”)

will not protect us, then we will have no choice but to seek our remedy from the Fifth Circuit. *E.g.*, FRAP 21; Fifth Cir. R. 21.

Because our fundamental civil rights are at stake, we resist any effort to require that we post bond to support the order. FRCP 65; *Wright & Miller*, 11A Fed. Prac. & Proc. Civ. § 2954 (3d ed.).

Respectfully submitted,



Matt Kezhaya

Ark. # 2014161

Minn. # 0403196

matt@crow.n.law

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general: **(612) 349-2216**

100 S. Fifth St., 19th Floor, Minneapolis, MN 55402

Cecile Young:

Your ongoing silence on this simple matter is deafening. **YOU ARE NOTIFIED** that, by Tuesday, **September 6, 2022**, at **2:00 pm** (or as soon thereafter as possible), we will file an emergency petition for a writ of mandamus with the Fifth Circuit which seeks entry of the prayed-for injunction (ECF 40, at 14-15) (“**immediately.**”)

–Matt

CERTIFICATE OF SERVICE

Opposing counsel will be notified by the ECF system.

4:21-CV-387

IN THE UNITED STATES DISTRICT COURT,
FOR THE SOUTHERN DISTRICT OF TEXAS,
HOUSTON DIVISION

The Satanic Temple, Inc. and Ann Doe
Plaintiffs

v.

Cecile **Young**, health commissioner,
Defendant.

AMENDED COMPLAINT



Matt Kezhaya

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Minn. # 0403196

matt@crow.n.law

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general: (612) 349-2216

333 N. Washington Ave # 300, Minneapolis, MN 55415

COMES NOW The Satanic Temple, with a complaint for judicial recognition of the congregants' conscience-based right to engage in the Satanic Abortion Ritual.

JURISDICTION AND VENUE

1. The Court has subject matter jurisdiction. 42 USC § 1983.
2. The Court has personal jurisdiction over Young.
3. Venue properly lies with this Court.

PARTIES

4. The Satanic Temple is a religion.
5. The Satanic Temple propounds the Seven Tenets.
6. The congregants follow the Seven Tenets.
7. The Seven Tenets permit abortions.
8. The congregants engage in ritual abortion.
9. Young prohibits abortion. All abortions. Including the ritual.

FACTS

10. A different religion engages in a ritualistic determination to *not* end an unwanted pregnancy.
11. The congregants find that other religion strange but respects that other religion's right to practice their own religion.
12. The congregants are entitled to the same respect.
13. The congregants do not seek to force abortion on that other religion. But that other religion sought to force pregnancy on the congregants.
14. That other religion holds sway over the legislators.
15. The legislators enacted the religious statutes.
16. The religious statutes are that other religion's effort to interfere with the ritual.
17. As grounds to pass the religious statutes, the legislators cited to that other religion's book.
18. The congregants hold that other religion's book in contempt.

19. The congregants do not follow that other religion.
20. That other religion does not make the law.
21. The congregants feel entitled to practice their ritual without government interference.
22. The congregants' ritual requires an abortion.
23. The ritual adversely affects nobody, including the congregant.
24. The religious statutes authorized Young to interfere with the ritual.
25. The congregants tried to engage in the ritual despite the religious statutes.
26. Young enforced the religious statutes.
27. The congregants were unsuccessful in having their ritual.
28. Young stopped the ritual.

COUNT 1

The Free Speech and Free Exercise Clauses

29. Young is subject to the law. *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407 (2022).
30. The law requires that the ritual go unabated. U.S. Const. I.
31. Young stopped the ritual.
32. Young broke the law. U.S. Const. I.
33. Young lost her official immunities. *Ex parte Young*, 209 U.S. 123 (1908).
34. Young should be brought to heel. 42 USC § 1983.

COUNT 2

The Establishment Clause

35. Young is subject to the law. *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407 (2022).
36. The law requires that government stay out of religion's way.

U.S. Const. I.

37. The legislators passed the religious statutes.
38. The religious statutes further a different religion's views.
39. The congregants do not hold those views.
40. The congregants attempted the ritual.
41. The congregants politely declined, and attempted their ritual.
42. Young stopped the ritual.
43. Young broke the law. U.S. Const. I.
44. Young lost her official immunities. *Ex parte Young*, 209 U.S. 123 (1908).
45. Young should be brought to heel. 42 USC § 1983.

PRAYER FOR RELIEF

WHEREFORE The Satanic Temple prays this Court order Young to recognize a religious exemption for abortion; and **immediately** cease all government interference with the ritual. The Satanic

Temple will provide notice of the order to all involved.

Respectfully submitted,
Matt Kezhaya
matt@crow.n.law

CERTIFICATE OF SERVICE

Opposing counsel will be notified by the ECF system.

4:21-CV-387

IN THE UNITED STATES DISTRICT COURT,
FOR THE SOUTHERN DISTRICT OF TEXAS,
HOUSTON DIVISION

The Satanic Temple, Inc. and Ann Doe,
Plaintiffs

v.

Cecile Young, health commissioner,
Defendant.

RULE 65 MOTION



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- 1 -

MOTION FOR TEMPORARY RESTRAINING ORDER
AND FOR PRELIMINARY INJUNCTION

NEVER THE TWAIN SHALL MEET

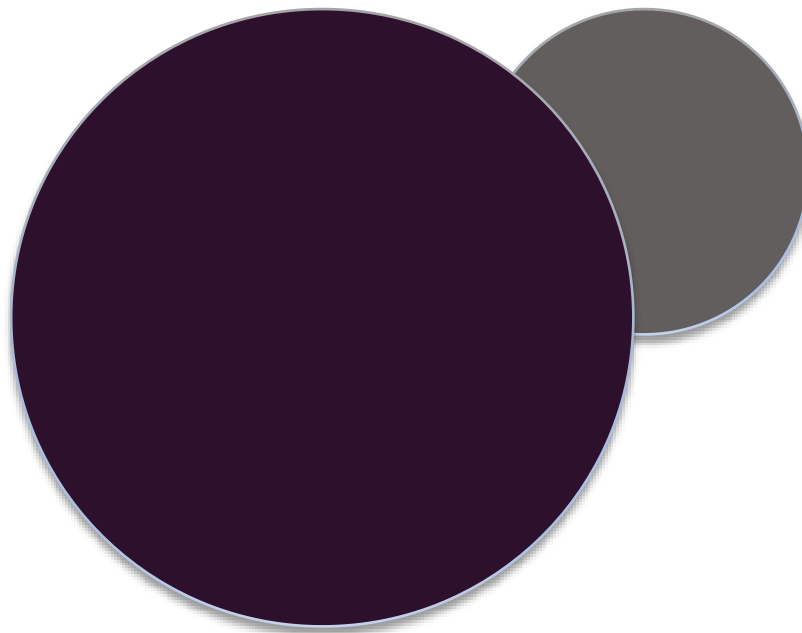
A play in five acts

- 2 -

MOTION FOR TEMPORARY RESTRAINING ORDER
AND FOR PRELIMINARY INJUNCTION

LAW

Act 1



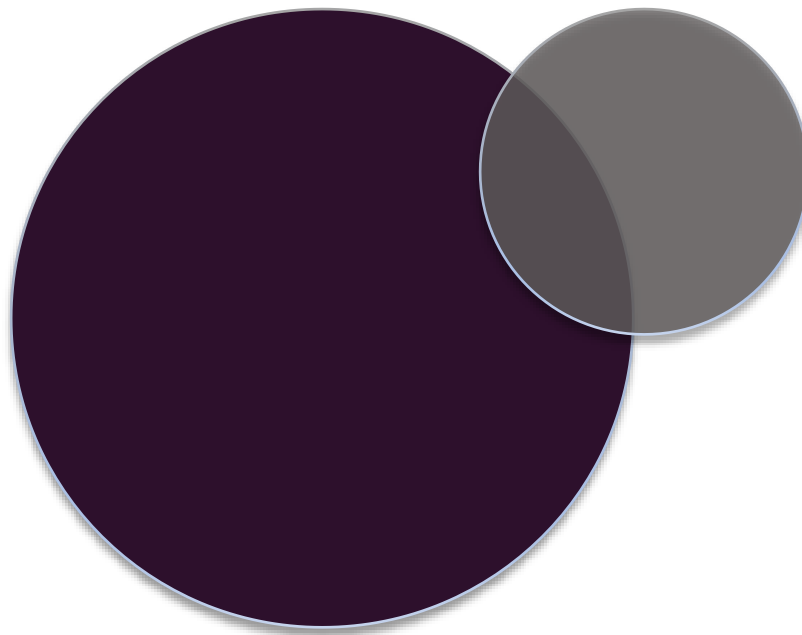
Religion is granted morals. Government is granted violence.

People follow their morals. Violence does not persuade.

Never the twain shall meet.

ENCROACHMENT

Act 2



Government asserts moral authority.

Religion's exclusive territory has been invaded.

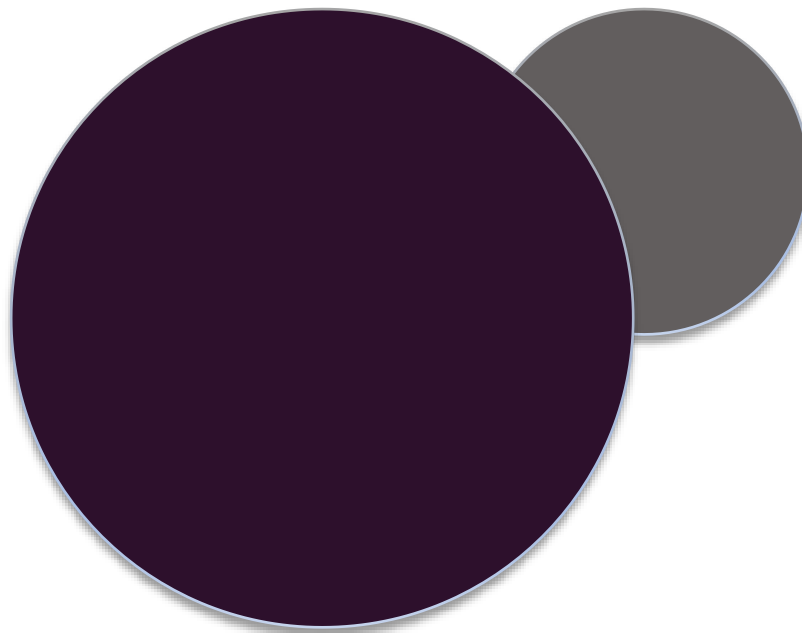
The twain has met.

- 4 -

MOTION FOR TEMPORARY RESTRAINING ORDER
AND FOR PRELIMINARY INJUNCTION

NATURAL RESPONSE

Act 3



Violence does not persuade.

People follow their morals.

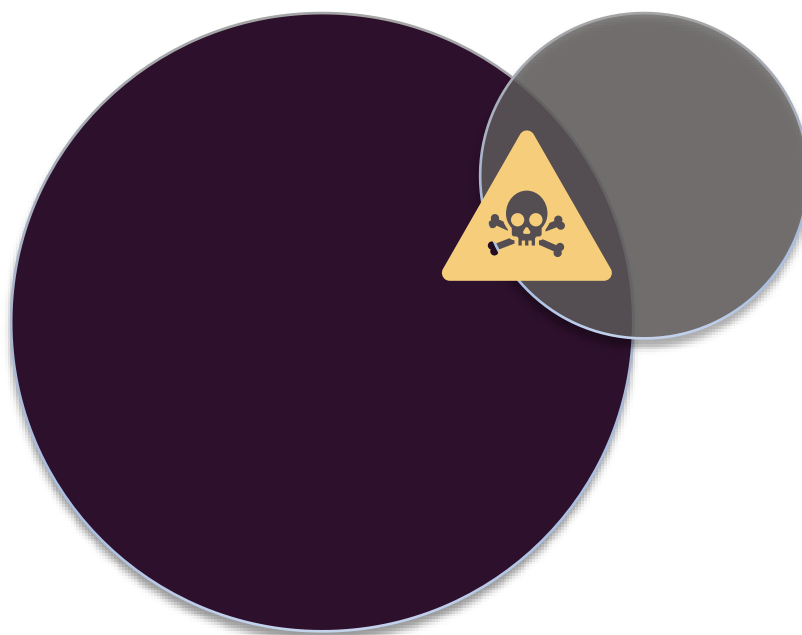
Tension mounts.

- 5 -

MOTION FOR TEMPORARY RESTRAINING ORDER
AND FOR PRELIMINARY INJUNCTION

NATURAL RETALIATION

Act 4



The tension is too much.

Words stop working.

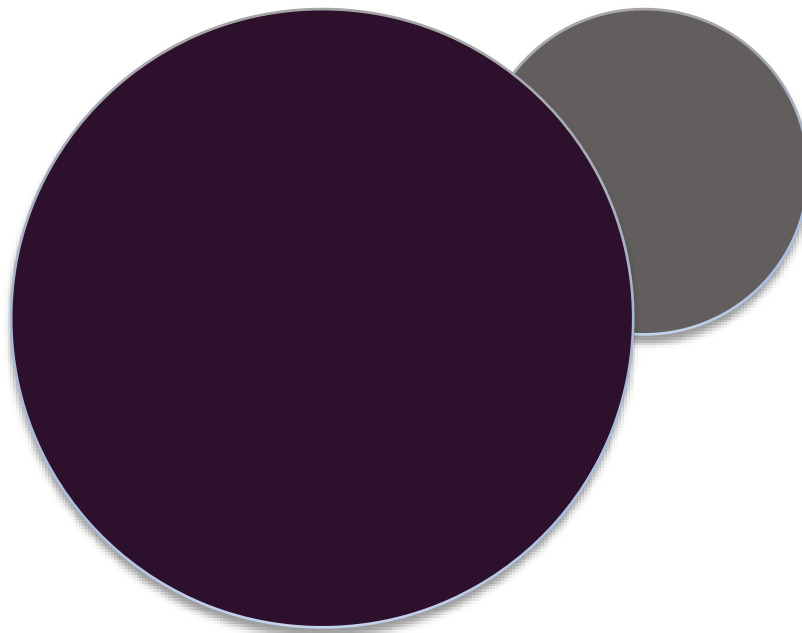
Violence does not persuade.

- 6 -

MOTION FOR TEMPORARY RESTRAINING ORDER
AND FOR PRELIMINARY INJUNCTION

CONCLUSION

Act 5



Society tries again.

Religion is granted morals. Government is granted violence.

Never the twain shall meet.

- 7 -

MOTION FOR TEMPORARY RESTRAINING ORDER
AND FOR PRELIMINARY INJUNCTION

COMES NOW The Satanic Temple, by and through counsel of record, on motion for a temporary restraining order and for preliminary injunction. FRCP 65(a), (b).

PROCEDURAL HISTORY

Two years ago, this action started as a religious dispute over whether a governmental official had crossed a Constitutional boundary. Between then and now, the predicate for the ritual went from “fundamental right” to “punishable.” Something is amiss, but it is not the congregants’ problem.

The congregants invoked the Court’s attention to the matter with an amended complaint and a motion for both a temporary restraining order and a preliminary injunction. This brief presents the legal argument. The separate appendix presents the proof.

SUMMARY

The congregants are a religion. Government is to be kept separate from religion. That is the law. Yet, Young, who enforces the

law, interfered with the congregants' ritual. As grounds, Young cites statutes derived from a religious book. The congregants do not subscribe to that book.

Religious beliefs are to be held by consent, or not at all. If the belief causes an action or inaction, that is to be done (or omitted) by consent; or not at all. That is the law. The congregants do not consent to a different religion's input on how the ritual should go.

A different religion, using the legislature, purports to tell the congregants how to think and act. The congregants see it differently. Young escalated things by siding with the other religion's viewpoint. Society has seen one too many religious wars, that is how we got the First Amendment. The Court should grant the motion.

ARGUMENT

1: *The ritual is the practice of a "religion."*

For the ritual to be an expression of the congregants' religion, the congregants and the ritual must be recognizably so.

1.1: The congregants act consistently with other religions.

The congregants are “religious.” To be “religious,” one must act and think like a religion. The congregants congregate, share fellowship, and engage in ceremony. The subject ritual, in particular, is one of those ceremonies. The congregants act consistently with other recognized religions. To substantiate the foregoing, the congregants made statements. Each statement recognizes the risk of perjury. The congregants are sincere.

Definitionally, the congregants share a set of beliefs about the deeper, imponderable, questions of life. *See* The Seven Tenets. These beliefs bring joy and fulfillment to the congregants. This, too, is consistent with other recognized religions.

1.2: The “Theism-only” argument has been tried. It fails.

The congregants do not subscribe to any deities. But the law is that “*whether* there are gods,” is not substantively different from “*whether* the Pope is infallible;” or “*whether* Catholicism is morally bankrupt.” The law was written, explicitly, to preclude religion

from being subjected to a vote. *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943). Yet the argument was once tried. It failed. *Satanic Temple v. City of Scottsdale*, No. CV18-00621-PHX-DGC, 2020 WL 587882 (D. Ariz. Feb. 6, 2020).

2: *Young interfered with the ritual.*

To justify bringing this matter to the public’s attention, the congregants attempted to engage in the ritual. They could not do so because of the challenged statutes. Young thinks the congregants need her approval to perform the ritual. That is *not* the law. *Cantwell v. State of Connecticut*, 310 U.S. 296 (1940).

Young is the head of the government office charged with enforcing the challenged statutes. The ritual did not happen, despite the congregants’ best efforts. Young interfered with the congregants’ ritual. As grounds, she cites certain statutes.

3: *The statutes are rooted in religion.*

The statutes are rooted in religion. Both sides of the “debate” relied on the same religious book. The legislative debate solely

entailed that book. No rational argument, and no evidentiary hearings. Just that book. The congregants hold that book in contempt. The congregants are entitled to hold that book in contempt. That is the law. **ACT 1.**

The congregants see no good cause for Young to enforce the challenged statutes. Statutes, based on something other than a “law” book, are not law. Religious opinions have a well-earned place of prominence in our society. That place lies categorically outside of our law books. That is the law.

That other religion will not stop at abortion. That other religion sees inaction as weakness. Society has already seen this play one too many times; that is how we got the First Amendment. Tyranny is to be nipped in the bud if it is to be stopped at all. That is the law.

If adherents of that other religion were forced to conform to the congregants’ way of thinking or doing, they would rightly cite the First Amendment in opposition. The congregants demand the same respect. They are entitled to the same respect. That is the law.

The congregants notified Young through the appropriate

channels of their objection to these “holy” statutes. Despite this, Young persisted in enforcing the statutes. Young broke the law.

ACT 2.

4: *The congregants are entitled to a pretrial injunction.*

The law is clear. The facts speak for themselves. Young, the would-be tyrant who claims divine authority, interfered with the congregants’ ritual. Young presents a problem to a group whose defining religious viewpoint is adversity to tyranny; most especially when that tyranny purports to vest itself with divine authority. Tension will continue to mount. This Court, uniquely, holds the power to relieve that tension, and set the stage back to **ACT 1**.

If the lawful exercise of that lawful order is perceived by that other religion as cause for misbehavior, then that other religion will be placing itself at odds with the only lawfully organized military in the lands. They will fall in line, or they will be corrected with the use of force. That is the law. *See* **ACT 1**. The only natural alternative is “divinely inspired” tyranny. *See* **ACT 4**.

ACT 2 has now concluded. The only question for the Court is *whether*: (1) we–civil society–may skip to **ACT 5**; or (2) we–civil society–shall revisit **ACTS 3** and **4**.

PRAYER FOR RELIEF

WHEREFORE the Court should enter a temporary restraining order as follows:

TO: Cecile Young, and every other agent of the State of Texas acting under color of State law.

You are immediately **RESTRAINED** from enforcing any abortion restrictions against the congregants of The Satanic Temple. The foregoing includes:

- Tex. Rev. Civ. Stat. art. 4512.1;
- Tex. Rev. Civ. Stat. art. 4512.2;
- Tex. Rev. Civ. Stat. art. 4512.3;
- Tex. Rev. Civ. Stat. art. 4512.4;
- Tex. Rev. Civ. Stat. art. 4512.6;
- Tex. Health & Safety Code § 170A.002;

- Tex. Health & Safety Code § 171.011 *et seq.*; and
- Tex. Health & Safety Code Ann. § 171.201 *et seq.*
- The requirement of bond is waived.

Respectfully submitted,
Matt Kezhaya
matt@crowne.law

WORD COUNT CERTIFICATE

The forgoing consists of **1,234** words.

COMES NOW Darcey Ruffalo, who states as follows under penalty of perjury:

1. My name is Darcey Ruffalo. I am over the age of 18, of sound mind, and am capable of making this unsworn declaration.
2. I am submitting this declaration under my real name despite the risk of the catastrophic side-effects I may encounter from the controversy surrounding this case.
3. I am a member of The Satanic Temple (“**TST**”) and hold its tenets as sincere religious beliefs.
4. The purpose of this statement is to outline how the State of Texas infringed on my civil and constitutional rights to practice my sincerely held religious beliefs.
5. On Wednesday, April 13, 2022, I took two pregnancy tests both with positive results. I scheduled an appointment at Planned Parenthood 201 E Ben White Blvd Bldg. B Bldg. B, Austin, TX 78704, for the following morning.
6. On Thursday April 14th, 2022, I received a transvaginal ultrasound and was told a “heartbeat” could be detected. The person administering the ultrasound estimated me at approx. 6 1/2 to 7 weeks gestation. I started crying as the sonographer explained that I could not receive an abortion in Texas. She asked if I wanted to look at the image from the ultrasound, which I did.
7. I was never made to or given the option to hear the electrical pulses from the tube of cardiovascular cells. I wanted to hear the pulses because I wanted every bit of proof that I could not have an abortion in the State of Texas due to its laws which clearly infringed on my sincerely held religious beliefs.

8. The sonographer asked me if I would like to speak to somebody regarding resources available. I said yes and asked her if she was familiar with The Satanic Temple. She was not.

9. I was then directed to speak with a different person regarding options and resources available to me. I told this person that I was a Satanist. I asked if she'd ever heard of The Satanic Temple, and their ongoing campaign for women's rights. I mentioned TST's exemption letter but quickly dropped the subject in order to speak with my clergyperson first.

10. As a member of the Satanic Temple and a religious Satanist, it is my sincerely held religious belief, clearly stated within Tenet II of the seven fundamental tenets, that one's body is inviolable, subject only to one's own will.

11. I left the clinic and reached out to TST for help. I was put in contact with a Minister of Satan who works with the Religious Reproductive Rights campaign. She offered herself as a point of contact for guidance and support.

12. The following Wednesday, April 20th 2022, I returned to the clinic where I received an ultrasound. I introduced myself, and they remembered me. I stated that the State of Texas' "six week" abortion law violated my constitutional right to freely practice my sincerely held religious beliefs. These beliefs are supposed to be protected by the First Amendment. I then presented the clinic staff with a signed religious exemption letter that TST provided to me.

13. The clinic staff told me that they sympathized with me, but said it was in their best interest to deny any abortion after detecting a "heart beat."

14. I was ultimately forced to obtain an abortion through my own means, research, and finances alone.



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

UPDATED ADVISORY ON TEXAS LAW UPON REVERSAL OF *ROE V. WADE*

Yesterday—July 26, 2022—the United States Supreme Court issued its final judgment in *Dobbs v. Jackson Women’s Health Organization*. As previously stated in our [June 24th Advisory](#), Texas’s Human Life Protection Act (“the Act”) takes effect on the 30th day after issuance of a judgment in a case overturning *Roe v. Wade*. See H.B. 1280, 87th Reg. Session 2021. Accordingly, we now know with certainty that the Act takes effect on August 25, 2022.

The Act provides that a “person may not knowingly perform, induce, or attempt an abortion” unless the mother has “a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that places [her] at risk of death or poses a serious risk of substantial impairment of a major bodily function unless the abortion is performed or induced.” Tex. Health & Safety Code § 170A.002(a)–(b).

“Abortion” is defined in section 245.002(1) of the Health and Safety Code as “the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to cause the death of an unborn child of a woman known to be pregnant. The term does not include birth control devices or oral contraceptives.” The term “abortion” in Texas law does not apply when these acts are done to “(A) save the life or preserve the health of an unborn child; (B) remove a dead, unborn child whose death was caused by spontaneous abortion; or (C) remove an ectopic pregnancy.” Tex. Health & Safety Code § 245.002(1)(A)–(C).

A person who violates the Act commits a first-degree felony if an unborn child dies as a result, a second-degree felony if the child lives, incurs civil penalties of no less than \$100,000 for each violation, and may lose his or her professional license. *Id.* § 170A.004–.007. The pregnant woman upon whom the abortion is performed cannot be penalized, *id.* § 170A.003, and the law protects women facing life-threatening physical conditions resulting from pregnancy complications, *id.* § 170A.002(b)(2).

My office is specifically authorized to pursue and recover civil penalties for violations of the Act, *id.* § 170A.005, and I will do my duty to enforce this law. Further, we stand ready to assist any local prosecutor who pursues criminal charges. Tex. Gov't Code § 402.028. Additionally, state licensing authorities “shall revoke the license, permit, registration, certificate, or other authority of a physician or other health care professional who performs, induces, or attempts an abortion in violation of” the Act. Tex. Health & Safety Code § 170A.007.

At the same time, local prosecutors may choose to immediately pursue criminal prosecutions based on violations of Texas abortion prohibitions predating *Roe* that were never repealed by the Texas Legislature.¹

2

Texas law in a post-*Roe* world has already been written. Now that the Supreme Court has finally overturned *Roe*, I will do everything in my power to protect mothers, families, and unborn children, and to uphold the state laws duly enacted by the Texas Legislature.



KEN PAXTON
Attorney General of Texas

¹ See Tex. Rev. Civ. Stat. art. 4512.1 (“Abortion”), previously codified at Tex. Pen. Code art. 1191 (1925) (“If any person shall designedly administer to a pregnant woman or knowingly procure to be administered with her consent any drug or medicine, or shall use towards her any violence or means whatever externally or internally applied, and thereby procure an abortion, he shall be confined in the penitentiary not less than two nor more than five years; if it be done without her consent, the punishment shall be doubled. By ‘abortion’ is meant that the life of the fetus or embryo shall be destroyed in the woman’s womb or that a premature birth thereof be caused.”); Tex. Rev. Civ. Stat. art. 4512.2 (“Furnishing the means”), previously codified at Tex. Pen. Code art. 1192 (1925) (“Whoever furnishes the means for procuring an abortion knowing the purpose intended is guilty as an accomplice.”); Tex. Rev. Civ. Stat. art. 4512.3 (“Attempt at abortion”), previously codified at Tex. Pen. Code art. 1193 (1925) (“If the means used shall fail to produce an abortion, the offender is nevertheless guilty of an attempt to produce abortion, provided it be shown that such means were calculated to produce that result, and shall be fined not less than one hundred nor more than one thousand dollars.”); Tex. Rev. Civ. Stat. art. 4512.4 (“Murder in producing abortion”), previously codified at Tex. Pen. Code art. 1194 (1925) (“If the death of the mother is occasioned by an abortion so produced or by an attempt to effect the same it is murder.”); Tex. Rev. Civ. Stat. art. 4512.6 (“By medical advice”), previously codified at Tex. Pen. Code art. 1196 (1925) (“Nothing in this chapter applies to an abortion procured or attempted by medical advice for the purpose of saving the life of the mother.”).

² With one exception: Only the Dallas County District Attorney is currently enjoined from enforcing these statutes.

person's beating heart, I just don't hear their heart. I hear their soul speaking and I listen carefully. In committee, as I referenced yesterday, we heard the sound of two heartbeats. One a developed baby in a mother's womb. The other a newly, newly beating baby. And those two recordings, obviously, I couldn't tell the difference, right, and you couldn't either. And nobody else said anything but I could look at their faces, and I could see them gesturing that they were one in the same. But with both of them, you and I and others heard a human life. I know we did. Abortion is a terrible thing. I, as all of you well know by now, I am pro-life but more, more than that I am pro lifetime from conception to natural death. I want to be consistent so I am also strongly opposed to the death penalty because we know that it stops a beating heart as well. Again, consistent. There's nothing in this world more precious to any one of us than life. Our families, our friends, our neighbors, the people we know, it is something so precious, and when we lose life, we mourn. And some of us never forget those that go from our world. Quoting Cardinal Bergoglio, now known as Pope Francis, he said, quote, caring for life from the beginning to the end, what a simple thing, what a beautiful thing, he said. So, go forth and don't be discouraged, care for life. It's worth it, unquote. Pro-life policies are so much more than just a bill to vote on. Life is precious and it is to be respected and protected from conception to natural death. Thou has granted you life. He called you through his grace. A heartbeat is life, indeed it is. Thank you, Mr. President. Thank you, Members.

President: Thank you, Senator Lucio. Senator Whitmire. What purpose? Speak on the bill.

Senator Whitmire: I'd speak in opposition.

President: You're recognized.

Senator Whitmire: Thank you, Mr. President and Members. Members, if I could have your attention, I was very hesitant to speak because I don't think any votes are going to change, but Senator Lucio actually motivated me because, Eddie, I remember a couple sessions back you made a tough vote with the supporters of this bill. And I was driving back to Houston and I believe it was on the, Senator Patrick's talk show at that time. And you mentioned that you were proud of your vote, which I respect, but you also want to remind your colleagues that you were voting with that you can't just be pro birth but you have to be pro-life, means after birth. That was really a profound statement that I heard years ago and I haven't forgotten it. I wish you'd continue to remind folks that whether you're talking about Medicaid expansion or health care, that the birth is the first subject we're talking about and it really doesn't end there. I rise in opposition. I want to speak for a moment to represent the voices that can't be here today. I know for a fact that there are large number of Texans that disagree with the majority that are supporting this bill. And they do so, Senator Hughes, out of personal experiences. Some family matters, some, you mentioned yesterday you'd spoken to experts that said the heartbeat would really be the best time to judge the viability. Let me just cite an expert that came to me in my neighborhood a couple of years ago. She's a doctor at Texas Children's Hospital. She said, I know you're going to be dealing with this topic in the future and I want you to know, as a professional, we're doing remarkable things at Texas Children in terms of caring for fetuses, newborn. And she said one of our experiences are because of the Supreme Court's ruling that 20

weeks is viability. That we're beginning to see, alarmingly, that some fetuses, some children are being born, their brain has not developed, their spines have not developed, and they are so underdeveloped when they're capable of leaving the hospital that the families do not want to take them home. And, you know, I'm listening to this expert. She said, and we really don't know what to do with that situation because they are becoming wards of the state indefinitely. So, I rise to let us know things are not as plain sometime as the bill's laid out to be. So, there's a health care concern, probably an unintended consequence to your proposal that hasn't been brought up. I've been very fortunate in my life to meet many people in many different situations. I was a young caseworker, what was then called the welfare department, working my way through college in the food stamp program. In 1970, one of my coworkers, during a break started crying and said that she had just learned that she was pregnant, her boyfriend had left her, didn't know what to do. Back then abortions were illegal in the State of Texas, 1970. I came here in '73. So, out of desperation she said, I've got to get to New York. And there's a system that will allow you to go to Bush Intercontinental joined other young ladies, some housewives, but I need \$300.

... someone or you, I assisted in...
... you thought I was probably delivering a girlfriend. I prom...

but she was, had nowhere, had no one else to turn to. So, I've never forgotten her experience. She came back the next day, later married, has her own family today. So, I can cite other examples. And I just rise to represent those instances and hope that my expressions will be one that let's respect, as convinced as you are, Senator Paxton and others, that you're correct, that there's a different point of view and let you know, also, when we're having this debate on this, probably the most emotional issue that I've seen in my career, that our words matter, fears matter. And I know the debate yesterday brought some tears to those listening to you, that we just have to respect that

... emotional activist, the Planned Parenthood...
... ought to change their name, because I think they'd make m...
... them so labeled—but those who get their health care...
... this decision...

sides to respect the views of the other one because this is just, we're not talking about

... whichever side you're on. With that said, Mr. President, I r...
... that I've witnessed throughout my life that have a...

President: Thank you, Senator. Senator Eckhardt, for what purpose?

Senator Eckhardt: To speak in opposition to the bill, Mr. President.

President: You're recognized.

Senator Eckhardt: I very much respect Senator Whitmire's consideration. I know that the votes on this bill won't change, but I'm hoping that by speaking this, my truth, that perhaps we will be able to build a relationship and maybe change some votes on future bills, future bills for the care and the compassion toward these women, these

children, and these families in the future. This particular bill seeks to delay or dissuade a woman's right to choose through isolating her by the threat of civil or criminal prosecution or professional ruin of anyone who attempts to help her. And so, I rise in opposition for my grandmother who helped my mother, or my mother who helped countless women who faced this difficult choice and had their own conversations with God. We in this building cannot and should not seek to script an individual's conversation with their God in these most intimate moments. So, I rise in opposition because this dissuades and seeks to isolate a woman in a very, very difficult moment from the very people who are most likely to provide her the support and the comfort in this moment. Thank you, Mr. President. Thank you, Senators.

President: Thank, thank you, Senator Eckhardt. Senator Hughes, close.

Senator Hughes: Thank you, Mr. President. Thank you, Members. I thank each of my colleagues that spoke on this bill and representing strong feelings that each of us hold and certainly folks back home hold. I don't guess there's anything more visceral, more difficult, as far as issues that we grapple with here, than this one. Fundamentally, this bill says that heartbeat—now I can't ask you to do this but if each one of us were to place a hand up here under our chin, we would feel that pulse because each one of us has a heartbeat—that's the sign of life. Our hearts tell us that, our heads tell us that, science tells us that. And so, when does life begin? Folks may put the line in different places in the development of that little unborn baby. But it's hard to argue with the fact that that heartbeat, the heart is beating, blood is pumping, there's life. That's human life worthy of protection, and as we do this, we, even with other bills we'll consider today, we want to show love and support to those mothers many of whom are in difficult, seemingly impossible situations. As we do that, let's protect that innocent human life. The most helpless, the most innocent a human can ever be. I ask for your vote "yes" on passage of the Texas Heartbeat Act.

SENATE BILL 1173 ON THIRD READING

Senator Hancock moved to suspend the regular order of business to take up for consideration **SB 1173** at this time on its third reading and final passage:

SB 1173, Relating to the regulation of abortion, including information regarding perinatal palliative care and prohibiting discriminatory abortions; authorizing disciplinary action; providing a civil remedy; creating a criminal offense.

The motion prevailed by the following vote: Yeas 19, Nays 12.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Nays: Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Menéndez, Miles, Powell, West, Whitmire, Zaffirini.

The bill was read third time and was passed by the following vote: Yeas 19, Nays 12. (Same as previous roll call)

SATANIC ABORTION RITUAL

The Satanic Abortion Ritual is a destruction ritual that serves as a protective rite. Its purpose is to cast off notions of guilt, shame, and mental discomfort that a patient may be experiencing due to choosing to have a medically safe and legal abortion.

Even the most confident and unapologetic individual can experience uncomfortable feelings and anxiety for choosing to terminate their pregnancy. Laws in many states that impose waiting periods and state-mandated counseling can exacerbate these feelings, as can social condemnation and outright harassment by those who oppose abortion.

Misinformation about abortion and guilt for pursuing that option can be a lot to handle. It can be exhausting and frustrating to try to shrug off and dismiss internal and external pressures, especially those driven by religious convictions that disregard the beliefs and freedoms of others. Even when one recognizes that these criticisms are invalid, they can make an already troubling time even harder.

This ritual is intended to alleviate some of these stressors and empower the patient to be guided by the Third and Fifth Tenets when pursuing their decision.

The purpose of the ritual is not to persuade someone to have an abortion if they are undecided. Instead, the ritual serves to assist in confirming their decision and to ward off the effects of unjust persecution, which can cause one to stray from the paths of scientific reasoning and free will that TST members strive to embody.



ABOUT THE RITUAL PREPARATIONS

TST's abortion ritual can be performed to address definable concerns or to overcome unproductive feelings.

The ritual, which includes the abortion itself, spans the entirety of the pregnancy termination procedure. There are steps to be performed before, during, and after the medical or surgical abortion.

Because rituals are deeply personal to those enacting them, there are variations in how it may be performed. The ritual can be personalized based on personal preferences and availability of materials. There is no need to purchase anything special or to adhere to every word. What is essential is the spirit and general intent.

One can also perform their favorite destruction ritual to target any of the unwanted feelings incited by adversity faced as a consequence of choosing to have an abortion. Feel free to take or leave whatever you wish from this one to build your own.

Before performing the ritual, you may choose to review the science about the safety and reality of abortion and the debunked claims from those who oppose abortion. You may also choose to read stories or listen to podcasts about people who made great sacrifices in the struggle to establish the reproductive rights we have today. These stories can be inspirational and may subdue stigmas you might feel from those who oppose abortion.

Your ability to choose to terminate a pregnancy is consistent with the ideals of liberty and freedom. Be proud of pursuing what you want for your life despite opposition.

IMPLEMENTS

- A quiet space where you feel comfortable
- Something that allows you to see your reflection
- A copy of The Satanic Temple's third and fifth tenets and personal affirmation

TENETS AND AFFIRMATIONS

Tenet III

One's body is inviolable, subject to one's own will alone.

Tenet V

Beliefs should conform to one's best scientific understanding of the world. One should take care never to distort scientific facts to fit one's beliefs.

Personal Affirmation

*By my body, my blood
By my will, it is done.*



PROCEDURES

For medical abortions:

Immediately before taking the medication(s) to terminate your pregnancy, look at your reflection to be reminded of your personhood and responsibility to yourself. Focus on your intent, take deep breaths, and make yourself comfortable. When ready, read the Third Tenet aloud to begin the ritual. After swallowing the medication(s), take another deep breath and recite the Fifth Tenet. After you have passed the embryo, return to your reflection, and recite the personal affirmation. Feel the doubts dissipating and your confidence growing as you have just undertaken a decision that affirms your autonomy and free will. The religious abortion ritual is now complete.

For surgical abortions:

Immediately before receiving any anesthetic or sedation, look at your reflection to be reminded of your personhood and responsibility to yourself. Focus on your intent, take deep breaths, and make yourself comfortable. When you are ready, say the Third Tenet aloud. The surgery can now begin. During the operation, take another deep breath and recite the Fifth Tenet. Immediately after the surgery, return to your reflection and recite the personal affirmation. Feel the doubts dissipating and your confidence growing as you have just undertaken a decision that affirms your autonomy and free will. The religious abortion ritual is now complete.



ENTERED

July 13, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

THE SATANIC TEMPLE	§	CIVIL ACTION NO
INC and ANN DOE,	§	4:21-cv-00387
Plaintiffs,	§	
	§	
	§	
vs	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
TEXAS HEALTH AND	§	
HUMAN SERVICES	§	
COMMISSION and	§	
CECILE YOUNG,	§	
Defendants.	§	

ORDER

This matter was stayed pending ruling by the United States Supreme Court in *Dobbs v Jackson Women’s Health Organization*. The parties were also ordered to promptly confer in good faith and file a status report following that ruling. Dkt 32 at 2–3. The parties complied, and their joint status report has been reviewed. Dkt 37.

The request by Plaintiffs for leave to amend their complaint is GRANTED. It’s understood that such amendment will withdraw certain claims from this action while adding others. Plaintiffs may, if desired, file a motion for preliminary injunction as noted, if such motion can be brought in conformance with Rule 11. Dkt 32 at 1–2. Defendants may then assert any intended motion to dismiss or other appropriate motion. Id at 2.

The following deadlines pertain:

- By August 22nd, Plaintiffs must file their amended complaint and any motion for preliminary injunction;
- By September 5th, Defendants must respond to

any motion for preliminary injunction and assert any dispositive motions;


- By September 19th, Plaintiffs must respond to any dispositive motions and may reply in support of any motion for preliminary injunction; and
- By September 26th, Defendant may reply in support of any dispositive motions.

A hearing on any motions will be set as necessary in the Court's discretion.

This action is otherwise STAYED until further order. Discovery will not proceed during pendency of the above motion practice absent further order.

SO ORDERED.

Signed on July 13, 2022, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge