

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

STATE OF IDAHO,

Defendant-Appellant.

No. 23-35440

D.C. No. 1:22-cv-
00329-BLW

ORDER

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

STATE OF IDAHO,

Defendant,

v.

MIKE MOYLE, Speaker of the Idaho
House of Representatives; CHUCK
WINDER, President Pro Tempore of
the Idaho Senate; THE SIXTY-

No. 23-35450

D.C. No. 1:22-cv-
00329-BLW

SEVENTH IDAHO LEGISLATURE,
Proposed Intevenor-Defendants,

Movants-Appellants.

Appeal from the United States District Court
for the District of Idaho
B. Lynn Winmill, Chief District Judge, Presiding

Argued and Submitted En Banc December 10, 2024
Pasadena, California

Filed March 13, 2025

Before: Mary H. Murguia, Chief Judge, and Ronald M. Gould, Consuelo M. Callahan, Milan D. Smith, Jr., John B. Owens, Eric D. Miller, Daniel A. Bress, Danielle J. Forrest, Lawrence VanDyke, Lucy H. Koh and Salvador Mendoza, Jr., Circuit Judges.

COUNSEL

Catherine M.A. Carroll (argued) and Brian D. Netter, Deputy Assistant Attorneys General; Michael S. Raab, McKaye L. Neumeister, Nicholas S. Crown, and Cynthia A. Barmore, Attorneys, Appellate Staff, Civil Division; Joshua D. Hurwit, United States Attorney; Brian M. Boynton, Principal Deputy Assistant Attorney General; United States Department of Justice, Washington, D.C.; Catherine Hess, Melissa Hart, and Jessica Bowman, Attorneys; David L. Hoskins, Acting Deputy Associate Counsel for Litigation; Joel McElvain, Acting Deputy General Counsel; Paul

Rodriguez, Deputy General Counsel; Samuel Bagenstos, General Counsel; United States Department of Health and Human Services, Washington, D.C.; for Plaintiff-Appellee.

John J. Bursch (argued), Bursch Law PLLC, Caledonia, Michigan; James A. Campbell, Erin M. Hawley, and Lincoln D. Wilson, Alliance Defending Freedom, Washington, D.C.; Michael A. Zarian, Attorney; Brian V. Church and Aaron M. Green, Deputy Attorneys General; Alan Foutz and Steven L. Olsen, Assistant Attorneys General; Joshua N. Turner, Deputy Solicitor General; Theodore J. Wold and Alan M. Hurst, Solicitors General; Raul R. Labrador, Idaho Attorney General; Office of the Idaho Attorney General, Boise, Idaho; for Defendant-Appellant.

Taylor A.R. Meehan (argued) and Daniel M. Vitagliano, Consovoy McCarthy PLLC, Arlington, Virginia; Daniel W. Bower, Hilty Bower Haws & Seable PLLC, Nampa, Indiana; for Movants-Appellants.

Lindsay C. Harrison (argued) and Arjun R. Ramamurti, Jenner & Block LLP, Washington, D.C.; Wendy Olson, Stoel Rives LLP, Boise, Idaho; for Amicus Curiae St. Luke's Health System, LTD.

Jay A. Sekulow and Stuart J. Roth, American Center for Law & Justice, Washington, D.C., for Amicus Curiae American Center for Law & Justice.

Melinda R. Holmes, Deputy Attorney General; James A. Barta, Solicitor General; Jenna M. Lorence, Deputy Solicitor General; Thomas M. Fisher, Solicitor General; Theodore E. Rokita, Indiana Attorney General; Office of the Indiana Attorney General, Indianapolis, Indiana; Steve Marshall, Alabama Attorney General, Office of the Alabama Attorney General, Montgomery, Alabama; Treg Taylor, Alaska

Attorney General, Office of the Alaska Attorney General, Fairbanks, Alaska; Tim Griffin, Arkansas Attorney General, Office of the Arkansas Attorney General, Little Rock, Arkansas; Ashley Moody, Florida Attorney General, Office of the Florida Attorney General, Tallahassee, Florida; Brenna Bird, Iowa Attorney General, Office of the Iowa Attorney General, Des Moines, Iowa; Kris Kobach, Kansas Attorney General, Office of the Kansas Attorney General, Topeka, Kansas; Daniel Cameron, Commonwealth of Kentucky Attorney General, Office of the Commonwealth of Kentucky Attorney General, Frankfort, Kentucky; Liz Murrill, Louisiana Attorney General; Jeff Landry, Former Louisiana Attorney General; Office of the Louisiana Attorney General, Baton Rouge, Louisiana; Lynn Fitch, Mississippi Attorney General, Office of the Mississippi Attorney General, Jackson, Mississippi; Andrew Bailey, Missouri Attorney General, Office of the Missouri Attorney General, Jefferson City, Missouri; Austin Knudsen, Montana Attorney General, Office of the Montana Attorney General, Helena, Montana; Michael T. Hilgers, Nebraska Attorney General, Office of the Nebraska Attorney General, Lincoln, Nebraska; Drew H. Wrigley, North Dakota Attorney General, Office of the North Dakota Attorney General, Bismarck, North Dakota; Gentner F. Drummond, Oklahoma Attorney General, Office of the Oklahoma Attorney General, Oklahoma City, Oklahoma; Alan Wilson, South Carolina Attorney General, Office of the South Carolina Attorney General, Columbia, South Carolina; Marty Jackley, South Dakota Attorney General, Office of the South Dakota Attorney General, Pierre, South Dakota; Jonathan Skrmetti, Tennessee Attorney General, Office of the Tennessee Attorney General, Nashville, Tennessee; Ken Paxton, Texas Attorney General; Angela Colmenero,

Provisional Texas Attorney General; Office of the Texas Attorney General, Austin, Texas; Sean D. Reyes, Utah Attorney General, Office of the Utah Attorney General, Salt Lake City, Utah; Patrick Morrissey, West Virginia Attorney General, Office of the West Virginia Attorney General, Charleston, West Virginia; Bridget Hill, Wyoming Attorney General, Office of the Wyoming Attorney General, Cheyenne, Wyoming; for Amici Curiae State(s) of Indiana, Alabama, Alaska, Arkansas, Florida, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming.

Hayley F. Penan, Deputy Attorney General; Karli Eisenberg, Supervising Attorney General; Renu R. George and Neil N. Palma, Senior Assistant Attorneys General; Helen H. Hong, Principal Deputy Solicitor General; Julie Veroff, Deputy Solicitor General; Rob Bonta, California Attorney General; Office of the California Attorney General, Sacramento, California; Sarah Coco and Laura Etlinger, Assistant Solicitors General; Galen Sherwin, Special Counsel for Reproductive Justice; Ester Murdukhayeva, Deputy Solicitor General; Barbara D. Underwood, Solicitor General; Letitia James, New York Attorney General; Office of the New York Attorney General, New York, New York; Kristen K. Mayes, Arizona Attorney General, Office of the Arizona Attorney General, Phoenix, Arizona; Philip J. Weiser, Colorado Attorney General, Office of the Colorado Attorney General, Denver, Colorado; William Tong, Connecticut Attorney General, Office of the Connecticut Attorney General, Hartford, Connecticut; Kathleen Jennings, Delaware Attorney General, Office of the Delaware Attorney General, Wilmington, Delaware; Anne

E. Lopez, Hawai'i Attorney General, Office of the Hawai'i Attorney General, Honolulu, Hawai'i; Kwame Raoul, Illinois Attorney General, Office of the Illinois Attorney General, Chicago, Illinois; Aaron M. Frey, Maine Attorney General, Office of the Maine Attorney General, Augusta, Maine; Anthony G. Brown, Maryland Attorney General, Office of the Maryland Attorney General, Baltimore, Maryland; Andrea J. Campbell, Commonwealth of Massachusetts Attorney General, Office of the Commonwealth of Massachusetts Attorney General, Boston, Massachusetts; Dana Nessel, Michigan Attorney General, Office of the Michigan Attorney General, Lansing, Michigan; Keith Ellison, Minnesota Attorney General, Office of the Minnesota Attorney General, St. Paul, Minnesota; Aaron D. Ford, Nevada Attorney General, Office of the Nevada Attorney General, Reno, Nevada; Matthew J. Platkin, New Jersey Attorney General, Office of the New Jersey Attorney General, Trenton, New Jersey; Raul Torrez, New Mexico Attorney General, Office of the New Mexico Attorney General, Santa Fe, New Mexico; Joshua H. Stein, North Carolina Attorney General, Office of the North Carolina Attorney General, Raleigh, North Carolina; Ellen F. Rosenblum, Oregon Attorney General, Office of the Oregon Attorney General, Salem, Oregon; Michelle A. Henry, Commonwealth of Pennsylvania Attorney General, Office of the Commonwealth of Pennsylvania Attorney General, Harrisburg, Pennsylvania; Peter F. Neronha, Rhode Island Attorney General, Office of the Rhode Island Attorney General, Providence, Rhode Island; Charity R. Clark, Vermont Attorney General, Office of the Vermont Attorney General, Montpelier, Vermont; Robert W. Ferguson, Washington Attorney General, Office of the Washington Attorney General, Olympia, Washington;

Joshua L. Kaul, Wisconsin Attorney General, Office of the Wisconsin Attorney General, Madison, Wisconsin; Brian L. Schwalb, District of Columbia Attorney General, Office of the District of Columbia Attorney General, Washington, D.C.; for Amici Curiae State(s) of California, New York, Arizona, Colorado, Connecticut, Delaware, Hawai'i, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, Wisconsin, and the District of Columbia.

Rachel Neil, Meredith A. Johnson, and Kavita Narayan, Attorneys; Tony LoPresti, Santa Clara County Counsel, San Jose, California; Delia Garza, Travis County Counsel, Austin, Texas; Margaret C. Daun, Corporation Counsel, Milwaukee County, Milwaukee, Wisconsin; Thomas L. Geiger, Contra Costa County Counsel, Martinez, California; Rodney Pol Jr., City Attorney; Angela Lockett, Corporation Counsel; Gary, Indiana; David Chiu, City Attorney, San Francisco, California; Lyndsey M. Olson, City Attorney, St. Paul, Minnesota; Emily S. Woerner, City Solicitor, Cincinnati, Ohio; Brian E. Washington, Marin County Counsel, San Rafael, California; Leslie J. Girard and Susan K. Blich, Monterey County Counsel, Salinas, California; Jessica M. Scheller, Deputy Chief, Civil Actions Bureau, Cook County Counsel, Chicago, Illinois; Dawyn Harrison, Jon S. Kuhn, and Candice Roosjen, Los Angeles County Counsel, Los Angeles, California; Jonathan G.C. Fombonne, Deputy County Counsel, First Assistant; Tiffany S. Bingham, Managing Counsel; Christian D. Menefee, Harris County Counsel; Houston, Texas; Muriel Goode-Trufant, Acting Corporation Counsel; Honorable Sylvia O. Hinds-Radix, Corporation Counsel; New York, New York; for Amici Curiae 14 Cities and Counties.

Shannon R. Selden and Adam Aukland-Peck, Debevoise & Plimpton LLP, New York, New York; Carrie Y. Flaxman, Mark Samburg, Jeffrey B. Dubner, and Kaitlyn Golden, Democracy Forward Foundation, Washington, D.C.; for Amici Curiae American College of Obstetricians and Gynecologists, American College of Emergency Physicians, American Medical Association, and Society for Maternal-Fetal Medicine, et al.

Ilya Shapiro and Tim Rosenberger, Manhattan Institute, New York, New York, for Amicus Curiae Manhattan Institute.

Jeremiah L. Morgan and William J. Olson, William J. Olson PC, Vienna, Virginia; Rick Boyer, Integrity Law Firm, Lynchburg, Virginia; Phillip L. Jauregui, Judicial Action Group, Birmingham, Alabama; Joseph W. Miller, Law Office of Joseph Miller LLC, Fairbanks, Alaska; for Amici Curiae America's Future, United States Constitutional Rights Legal Defense Fund, Judicial Action Group, Restoring Liberty Action Committee, and Conservative Legal Defense and Education Fund.

Deborah J. Dewart, Hubert, North Carolina, for Amicus Curiae North Carolina Values Institute.

Christopher E. Mills, Spero Law LLC, Charleston, South Carolina, for Amicus Curiae Pro Life Center at the University of St. Thomas.

Nathan T. Seltzer, Allan E. Parker Jr., and Mary J. Browning, Senior Attorneys; R. Clayton Trotter, General Counsel; The Justice Foundation, San Antonio, Texas; for Amici Curiae Women Hurt by Abortion.

Nicholas J. Nelson, CrossCastle PLLC, Minnetonka, Minnesota; Brittany M. Jones, Kansas Family Foundation,

Wichita, Kansas; Renee K. Carlson, True North Legal, St. Paul, Minnesota; for Amici Curiae Minnesota Family Counsel, Kansas Family Voice, Alabama Policy Institute, Center for Arizona Policy, California Family Council, Center for Christian Virtue, Christian Civic League of Maine, Family Policy Alliance, Family Leader, Family Foundation (Kentucky), Indiana Family Institute, Nebraska Family Alliance, New York Families Foundation, North Carolina Family Policy Council, North Dakota Family Alliance, Maryland Family Institute, Massachusetts Family Institute, South Dakota Family Voice, Texas Values, and Wyoming Family Alliance.

Catherine Short and Sheila A. Green, Life Legal Defense Foundation, Ojai, California; Rebecca R. Messall, Messall Law Firm LLC, Mapel Grove, Minnesota; for Amicus Curiae Life Legal Defense Foundation.

J. Marc Wheat and Timothy Harper, Advancing American Freedom, Inc., Washington, D.C., for Amici Curiae Advancing American Freedom, Inc., Idaho Family Policy Center, Advance USA, AFA Action, Alaska Family Council, Alliance for Law and Liberty, American College of Pediatricians, American Conservative Union Foundation, American Values, Americans for Limited Government, Anglicans for Life, E. Calvin Beisner, Ph.D., President, Cornwall Alliance for the Stewardship of Creation, Catholics Count, Center for Political Renewal, Center for Urban Renewal and Education (CURE), Christian Law Association, Christian Medical & Dental Associations, Concerned Women for America, Delaware Family Policy Council, Democrats for Life, Eagle Forum, Faith and Freedom Coalition, Family Council in Arkansas, Frontline Policy Council, Galen Institute, Charlie Gerow, Global Liberty Alliance, Healing the Culture, Heartbeat

International, Human Coalition, Intercessors for America, International Conference of Evangelical Chaplain Endorsers, James Dobson Family Institute, Tim Jones, Former Speaker, Missouri House, Chairman, Missouri Center-Right Coalition, Louisiana Family Forum, Lutheran Center for Religious Liberty, Men and Women for a Representative Democracy in America, Inc., Men for Life, Michigan Family Forum, Minnesota Family Council, Mountain States Legal Foundation, National Center for Public Policy Research, National Religious Broadcasters, New Jersey Family Foundation, New Jersey Family Policy Center, North Carolina Values Coalition, Pacific Justice Institute, Project 21 Black Leadership Network, Rhode Island Family Institute, Rick Santorum, Roughrider Institute, Samaritan's Purse, Save the Storks, Setting Things Right, 60 Plus Association, Students for Life of America, Texas Right to Life, The Family Foundation (TFF) of Virginia, The Justice Foundation, Tradition, Family, Property, Inc., Women for Democracy in America, Inc., Wisconsin Family Action, Inc., Young America's Foundation, and Young Conservatives of Texas.

Judd E. Stone II, Christopher D. Hilton, and Ari Cuenin, Stone Hilton PLLC, Austin, Texas, for Amicus Curiae The American Association of Pro-Life Obstetricians & Gynecologists.

Gene C. Schaerr, Cristina M. Squiers, Justin A. Miller, and Miranda C. Sherrill, Schaerr Jaffe LLP, Washington, D.C., for Amicus Curiae Charlotte Lozier Institute.

Lea E. Patterson and Justin E. Butterfield, Butterfield & Patterson PLLC, Plano, Texas; Rachel N. Morrison and Eric N. Kniffin, Ethics and Public Policy Center, Washington, D.C.; for Amicus Curiae Ethics and Public Policy Center.

James Bopp Jr. and Taylor C. Shetina, The Bopp Law Firm PC, Terre Haute, Indiana, for Amicus Curiae National Right to Life Committee.

Chad Golder, American Hospital Association, Washington, D.C., for Amici Curiae American Hospital Association, The Association of American Medical Colleges, and America's Essential Hospitals.

Nicole A. Saharsky, Minh Nguyen-Dang, and Charley B. Lanter, Mayer Brown LLP, Washington, D.C., for Amici Curiae Former HHS Officials.

Nandan M. Joshi, Scott L. Nelson, and Allison M. Zieve, Public Citizen Litigation Group, Washington, D.C., for Amicus Curiae Public Citizen.

Elizabeth B. Wydra, Brianne J. Gorod, and Miriam Becker-Cohen, Constitutional Accountability Center, Washington, D.C., for Amici Curiae 259 Members of Congress.

Rupali Sharma, Lawyering Project, South Portland, Maine; Tanya G. Pellegrini, Lawyering Project, San Francisco, California; Allison Zimmer, Lawyering Project, New Orleans, Louisiana; for Amici Curiae Dr. Caitlin Bernard, Dr. Lauren Miller, Dr. Leilah Zahedi-Spung, and Dr. Nikki Zite.

Christine E. Webber, Sabrina S. Merold, Alison S. Deich, Aniko R. Schwarcz, Harini Srinivasan, and Nina C. Jaffe-Geffner, Cohen Milstein Sellers & Toll PLLC, Washington, D.C.; Michelle Banker, Dorianne Mason, Gretchen Borchelt, Donya Khadem, National Women's Law Center, Washington, D.C.; for Amici Curiae National Women's Law Center, In Our Own Voice: National Black Women's Reproductive Justice Agenda, Indigenous Women Rising, National Asian Pacific American Women's Forum, National

Latina Institute For Reproductive Justice, and 64 Additional Organizations.

Alexa Kolbi-Molinas, American Civil Liberties Union Foundation, New York, New York; Patrick J. Hayden, Cooley LLP, New York, New York; Kathleen R. Hartnett, Cooley LLP, San Francisco, California; Angeline X. Chen, Cooley LLP, Washington, D.C.; Alexander Robledo, Cooley LLP, Boston, Massachusetts; Paul C. Southwick and Emily M. Croston, American Civil Liberties Union of Idaho Foundation, Boise, Idaho; for Amici Curiae American Civil Liberties Union, ACLU Foundation, and ACLU of Idaho.

Thomas R. Barker and Kian Azimpoor, Foley Hoag LLP, Washington, D.C.; Andrew London and Jack C. Smith, Foley Hoag LLP, Boston, Massachusetts; for Amici Curiae American Public Health Association, Robert Wood Johnson Foundation, Network for Public Health Law, American Medical Women's Association, and 134 Deans and Scholars.

Christina G. Hioureas and Nicholas M. Renzler, Foley Hoag LLP, New York, New York, for Amici Curiae Global Justice Center, Amnesty International, and IPAS Impact Network.

Jillian E. MacLeod and Michelle Uzeta, Disability Rights Education and Defense Fund, Berkeley, California, for Amici Curiae Disability Rights Education and Defense Fund and Other Disability Rights Organizations and Experts.

Janice Mac Avoy, Laura I. Sinrod, Anne S. Aufhauser, Antonio J. DelGrande, and Rachel L. Demma, Fried Frank Harris Shriver & Jacobson LLP, New York, New York; Katherine L. St. Romain, Corinne R. Moini, and Katherine S. Borchert, Fried Frank Harris Shriver & Jacobson LLP,

Washington, D.C.; for Amicus Curiae Physicians for Reproductive Health.

Gerson H. Smoger, Smoger and Associates, Dallas, Texas; Payal Shah, Physicians for Human Rights, New York, New York; for Amicus Curiae Physicians for Human Rights.

ORDER

Pursuant to the parties' stipulated agreement, Dkt. No. 285, these appeals are hereby DISMISSED. Each side shall bear its own costs. A copy of this order shall serve as the mandate of this court.

IT IS SO ORDERED.