

Office of the Attorney General



JONATHAN SKRMETTI
ATTORNEY GENERAL AND REPORTER

August 21, 2026

Kelly L. Stephens
U.S. Court of Appeals for the Sixth Circuit
540 Potter Stewart Courthouse
100 E. Fifth Street
Cincinnati, Ohio 45202-3988

Re: *Welty et al., v. Dunaway et al.*, Nos. 25-5738/25-5739
FRAP 28(j) Response Letter

Dear Clerk Stephens:

Planned Parenthood Great Northwest, Hawai'i, Alaska, Indiana, Kentucky, Inc. v. Commissioner of the Indiana State Department of Health, No. 24-2219, 2026 WL 2409722 (7th Cir. Aug. 18, 2026), does not show that Plaintiffs are entitled to as-applied relief, let alone the universal injunction they received.

First, unlike Indiana, Tennessee has maintained throughout this litigation that Plaintiffs' advocacy and information sharing falls outside the scope of Tenn. Code Ann. § 39-15-201(a). Indiana's law proscribes the provision of "factually accurate information about abortion providers who operate in other states"—information the plaintiff there provides. *Planned Parenthood*, 2026 WL 2409722, at *1. Section 39-15-201(a), in contrast, "prohibits intentional efforts *to persuade* minors to obtain elective abortions without parental consent," Third-Br.7—efforts in which Plaintiffs here do not engage, First-Br.21-24; Third-Br.3-14. Because § 39-15-201(a) does not proscribe Plaintiffs' conduct, they lack standing. First-Br.16-29; Third-Br.3-14. And even were the Court to reach their as-applied challenge, it fails for the same reason. First-Br.38-39; Third-Br.24-25.

Second, *Planned Parenthood* also does not help Plaintiffs' facial challenge. The *Planned Parenthood* plaintiff brought an as-applied challenge. *Planned Parenthood*, 2026 WL 2409722, at *12. Plaintiffs here ask for much more. Their facial claim requires *proof* that "the law's unconstitutional applications *substantially outweigh* its

constitutional ones.” First-Br.37 (citation omitted). Plaintiffs have conceded § 39-15-201(a) has numerous lawful applications, Third-Br.31-32, but presented *no* evidence showing that unconstitutional applications *substantially outweigh* constitutional ones, First-Br.37-39. That dooms Plaintiffs’ facial claim.

Third, Planned Parenthood confirms that the district court’s universal injunction must be narrowed. There, the Seventh Circuit limited the lower court’s injunction to ensure the plaintiff received only the relief it needed to remedy its injuries. *Planned Parenthood*, 2026 WL 2409722, at *4. Here, at a minimum, the Court should limit the injunction to ensure relief is tailored to only those applications of the law that violate the Constitution and to only those parties before the Court. First-Br.53-66; Third-Br.55-64.

Respectfully,

/s/Madeline W. Clark
MADELINE W. CLARK
Solicitor General

Counsel for Defendants-Appellants

CERTIFICATE OF COMPLIANCE

This letter complies with Rule 28(j) because its body contains 317 words. It also complies with the typeface and type style requirements of Fed. R. App. P. 32(a)(5)-(6) because it has been prepared in proportionally spaced typeface using Century Schoolbook 12-point font in Microsoft Word.

/s/Madeline W. Clark
MADELINE W. CLARK
Solicitor General

CERTIFICATE OF SERVICE

Pursuant to Fed. R. App. P. 25(d) and 6 Cir. R. 25(f), I certify that a true and exact copy of this letter has been filed via the Court's electronic filing system on August 21, 2026. That system sends a Notice of Docket Activity to all registered attorneys in this case. Under 6 Cir. R. 25(f)(1)(A), "[t]his constitutes service on them and no other service is necessary."

/s/Madeline W. Clark
MADELINE W. CLARK
Solicitor General