

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

CAITLIN BERNARD, M.D.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Case No.: 1:19-cv-01660-SEB-MJD
THE INDIVIDUAL MEMBERS OF THE	)	
INDIANA MEDICAL LICENSING BOARD,	)	
in their official capacities;	)	
THE MARION COUNTY PROSECUTOR,	)	
	)	
Defendants.	)	

**EXPEDITED MOTION TO VACATE PRELIMINARY INJUNCTION**

Defendants, by counsel, respectfully move the Court to vacate from its Order on Plaintiffs’ Motion for a Preliminary Injunction, ECF No. 48, which enjoins the State from enforcing its dismemberment abortion ban, Ind. Code §§ 16-18-2-96.4, 16-34-2-1(c), 16-34-2-7(a), 16-34-2-9, 16-34-2-10. Counsel for Plaintiff, Ken Falk, has indicated that his client will oppose this motion. Because the Supreme Court’s decision in *Dobbs* is exceptionally clear, the State asks that the Court require any response to be filed within three days to facilitate expedited consideration. In support, Defendants state:

1. On June 28, 2019, this Court issued a preliminary injunction preventing the State from enforcing Ind. Code §§ 16-18-2-96.4, 16-34-2-1(c), 16-34-2-7(a), 16-34-2-9, 16-34-2-10, which prohibit “knowingly or intentionally perform[ing] a dismemberment abortion unless reasonable medical judgment dictates that performing the abortion is necessary: (1) to prevent any serious health risk to the mother; or (2) to save the mother’s life.” ECF No. 48. The Court’s order held that these provisions imposed an undue burden on a woman’s decision to have an abortion in

violation of *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

2. On June 24, 2022, the Supreme Court overruled *Roe* and *Casey*—the decisions underpinning this Court’s opinion. In *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. \_\_\_, No. 19-1392 (June 24, 2022), the Supreme Court “h[e]ld that the Constitution does not confer a right to abortion.” Slip op. at 69. It explained that *Roe*’s and *Casey*’s contrary holdings were “egregiously wrong,” “exceptionally weak,” and “deeply damaging.” *Id.* at 44–45, 55–56. “*Roe* and *Casey*,” the Court concluded, therefore “must be overruled,” and the “authority to regulate abortion must be returned to the people and their elected representatives.” *Id.* at 5, 69; *see id.* at 79.

3. The Supreme Court’s decision to overrule *Roe* and *Casey* warrants immediate vacatur of the preliminary injunction entered in this case. Under *Dobbs*, Indiana is free to enact laws that protect unborn children, including those designed to prohibit inhumane procedures.

WHEREFORE, Defendants, by counsel, respectfully move the Court to vacate its preliminary injunction, and to do so on an expedited schedule.

Respectfully submitted,

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