

*In The*

**Supreme Court of the United States**

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WHOLE WOMAN'S HEALTH, ET AL., Petitioners,

*v.*

AUSTIN REEVE JACKSON,

IN HIS OFFICIAL CAPACITY AS JUDGE OF THE 114TH DISTRICT COURT, ET AL.

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**APPLICATION FOR ISSUANCE OF A COPY OF THE OPINION AND  
CERTIFIED COPY OF THE JUDGMENT FORTHWITH**

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## **RULE 29.6 STATEMENT**

Whole Woman's Health is the doing business name of a consortium of limited liability companies held by a holding company, the Booyah Group, which includes Whole Woman's Health of McAllen, LLC and Whole Woman's Health of Fort Worth, LLC d/b/a Whole Woman's Health of Fort Worth and Whole Woman's Health of North Texas. Whole Woman's Health has no parent corporation, and no publicly held corporation holds 10% or more of its shares.

Planned Parenthood of Greater Texas Surgical Health Services is a subsidiary of Planned Parenthood of Greater Texas. No publicly held corporation holds 10% or more of shares in either organization.

Planned Parenthood South Texas Surgical Center discloses that Planned Parenthood South Texas is its sole member. No publicly held corporation holds 10% or more of shares of either organization.

Alamo City Surgery Center, P.L.L.C. d/b/a Alamo Women's Reproductive Services; Brookside Women's Medical Center, P.A. d/b/a Brookside Women's Health Center and Austin Women's Health Center; Houston Women's Clinic; Houston Women's Reproductive Services; Planned Parenthood Center for Choice; Southwestern Women's Surgery Center; Whole Woman's Health Alliance; The Afiya Center; Frontera Fund; Fund Texas Choice; Jane's Due Process; Lilith Fund for Reproductive Equity; and North Texas Equal Access Fund have no parent corporations, and no publicly held corporation holds 10% or more of their shares.

**TO THE HONORABLE SAMUEL A. ALITO, JR., ASSOCIATE JUSTICE OF THE SUPREME COURT AND CIRCUIT JUSTICE FOR THE FIFTH CIRCUIT:**

Petitioners Whole Woman’s Health, et al., respectfully seek an order pursuant to Rule 45.3 of the Rules of this Court directing the immediate transmission of the Court’s opinion and certified copy of the judgment to the Clerk of the United States District Court for the Western District of Texas. *See* slip op. 4 (“Because this Court granted certiorari before judgment, we effectively stand in the shoes of the Court of Appeals.”). Respondent Mark Lee Dickson opposes the relief sought in this application. Counsel for petitioners emailed counsel for all other respondents on December 12 but have been unable to ascertain their position.

On December 10, 2021, this Court affirmed in part and reversed in part the order of the district court denying respondents’ motions to dismiss. While the Court concluded that petitioners’ pre-enforcement challenge to Texas Senate Bill 8, 87th Leg., Reg. Sess. (2021) (“S.B. 8”), was impermissible against some respondents, the Court held that “this case may proceed past the motion to dismiss stage against Mr. Carlton, Ms. Thomas, Ms. Benz, and Ms. Young, defendants with specific disciplinary authority over medical licensees, including the petitioners.” Slip op. 17. The Court remanded the case to the district court for further proceedings against those respondents. Absent an order directing expedited issuance of the opinion and a certified copy of the judgment, however, the formal remand to the district court will not occur for at least 25 days from the date the opinion was issued. *See* S. Ct. R. 45.2, 45.3.

Immediate transmission of the opinion and judgment is warranted for at least three reasons.

*First*, it would accord with this Court's expedited consideration of this case. *See slip op.* 17 n.6. On August 30, petitioners filed an emergency application for injunctive relief, and the Court resolved that application in approximately two days. On October 18, the Court granted petitioners' motion to expedite consideration of the petition for a writ of certiorari before judgment and directed respondents to file a response three days later. On October 22, the Court granted the petition and set oral argument for only ten days later. And the Court issued its opinion 39 days after oral argument. Transmitting the opinion and judgment in the normal course now would be inconsistent with how the Court has handled the case.

*Second*, since S.B. 8 took effect on September 1, it has chilled the exercise of a constitutional right recognized by this Court for nearly 50 years. For more than 100 days, thousands of Texans have been unable to exercise their federal constitutional right to terminate their pregnancy. Those with the means to do so are being forced to travel hundreds of miles or more out of State to exercise a constitutional right, while many others are being forced to take on the profound medical risks and pains of continuing pregnancy and childbirth against their will. And the rush of Texans fleeing to seek care is causing weeks-long appointment backlogs in other States, harming residents of multiple States and invariably delaying first-trimester abortion patients across the country until later in pregnancy. *See Pet.* 18–21 (No. 21-463). “Given the ongoing chilling effect of the state law, the District Court should resolve

this litigation and enter appropriate relief without delay.” Slip op. 2 (Roberts, C.J., concurring in the judgment in part and dissenting in part). That can occur only once the Court transmits the opinion and judgment, which it should do forthwith.

*Third*, the requested relief will not prejudice respondents. The 25-day delay before transmitting this Court’s opinion and certified copy of the judgment to the lower court provides time for an aggrieved party to seek rehearing. Respondents Jackson, Clarkston, Paxton, and Dickson have no basis to seek rehearing, as this Court’s opinion requires their dismissal from the case. Respondents Carlton, Thomas, Benz, and Young also have no basis to seek rehearing, as this Court’s opinion was based on the Court’s comprehensive examination of S.B. 8’s text.

## CONCLUSION

The application under Rule 45.3 for the immediate transmission of the Court’s opinion and a certified copy of the judgment to the Clerk of the United States District Court for the Western District of Texas should be granted.

Respectfully submitted.

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