

No. 21-588

IN THE
Supreme Court of the United States

UNITED STATES OF AMERICA,
Petitioner,

v.

STATE OF TEXAS, *et al.*,
Respondents.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

**BRIEF OF PLANNED PARENTHOOD OF GREATER
TEXAS SURGICAL HEALTH SERVICES, PLANNED
PARENTHOOD SOUTH TEXAS SURGICAL CENTER,
COMPREHENSIVE HEALTH OF PLANNED
PARENTHOOD GREAT PLAINS, PLANNED
PARENTHOOD OF ARKANSAS & EASTERN
OKLAHOMA, PLANNED PARENTHOOD CENTER
FOR CHOICE, AND PLANNED PARENTHOOD OF
THE ROCKY MOUNTAINS AS AMICI CURIAE IN
SUPPORT OF THE UNITED STATES OF AMERICA**

DIANA O. SALGADO
CARRIE Y. FLAXMAN
PLANNED PARENTHOOD
FEDERATION OF
AMERICA, INC.
1110 Vermont Ave., NW #300
Washington, D.C. 20005

ALAN E. SCHOENFELD
Counsel of Record
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
(212)-937-7294
alan.schoenfeld@wilmerhale.com

ADDITIONAL COUNSEL LISTED ON INSIDE COVER

JENNIFER SANDMAN
PLANNED PARENTHOOD
FEDERATION OF
AMERICA, INC.
123 Williams Street,
10th Floor
New York, NY 10038

SARAH B. PETTY
MICHAELA P. SEWALL
NINA B. GARCIA
RACHEL BIER
ALICIA M. CONEYS
LABDHI P. SHETH
CHARLOTTE E. MOSTERTZ
ASMA S. JABER
WILMER CUTLER PICKERING
HALE AND DORR LLP
60 State Street
Boston, MA 02109

CAITLIN DEVEREAUX
WILMER CUTLER PICKERING
HALE AND DORR LLP
350 South Grand Ave.,
Suite 2400
Los Angeles, CA 90071

TABLE OF CONTENTS

	Page
INTEREST OF AMICI CURIAE AND SUMMARY OF ARGUMENT.....	1
ARGUMENT.....	2
A. Patients In Texas Are Being Denied Their Right To An Abortion Every Day S.B. 8 Remains In Effect	2
B. Patients Encounter Obstacles To Receiving Out-Of-State Care	12
C. S.B. 8 Traumatizes Healthcare Providers	26
CONCLUSION	28

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AS AMICI CURIAE IN SUPPORT OF
THE UNITED STATES OF AMERICA**

**INTEREST OF AMICI CURIAE AND
SUMMARY OF ARGUMENT¹**

Amici provide comprehensive reproductive health care in Texas and nearby States. Through a series of

¹ No counsel for a party authored this brief in whole or in part, and no entity or person, other than amici curiae, their members, and their counsel, made a monetary contribution intended to fund the preparation or submission of this brief. Three amici here are among petitioners in *Whole Woman's Health et al. v. Austin Reeve Jackson, Judge, et al.* (No. 21-463), and some counsel for amici also represent the same petitioners in that case.

The parties have provided their blanket consent to the filing of amicus briefs in this case.

narratives—based on contemporaneous interviews by Planned Parenthood staff—this brief conveys the real-life impact of S.B. 8 on Texas patients who are denied, and Planned Parenthood staff who are prohibited from providing, necessary abortions.

ARGUMENT

A. Patients In Texas Are Being Denied Their Right To An Abortion Every Day S.B. 8 Remains In Effect

F.P. is a sixteen-year-old student denied an abortion because of S.B. 8. She started noticing symptoms but “her menstrual cycle is weird” and she thought she had Covid-19. F.P. is unsure whether she can travel out of State. F.P.’s mother became pregnant as a teenager herself and said she will “support whatever [F.P.] decides.” F.P.’s mother said her daughter is “very bright” and “[has] so much talent” that she does not want “to go to waste.” She sees a “face of anguish” on F.P. and knows she is not ready to have a baby.

F.P.’s mother does not have a stable home. If they were not able to obtain financial assistance to travel, F.P.’s mother feared F.P. “would be forced to do something that she’s not ready for”—become a parent—which would “take a toll on her.” If S.B. 8 were not the law, F.P. would have had an abortion promptly in Texas, without the need to spend more money or time.

D.O. is the single mother of a kindergartener and is balancing work and school. She was just out of a relationship with her daughter’s father who “was just really bad ... He was very abusive.” The abuse during her first pregnancy “was horrible” and “after I had [my

daughter], it was even worse.” She “finally got away” and “was building [her] life.” But she said, “there was just no way that I could physically, mentally, emotionally go through that again.” Her daughter’s father “doesn’t pay child support” and “sees [their daughter] maybe once a month.” She said, “I just don’t think that I can take it again.”

D.O. was 5 weeks and 5 days pregnant and could not get an abortion in Texas under S.B. 8 because embryonic cardiac activity was detected. She was filled with “[f]ear of if I’m actually going to be able to go through this, because so many factors have to go around: me missing work, having to make sure that [I have] somebody to take care [of her daughter], and then probably having to explain the situation to somebody because I need somebody to take care of her, and then the cost.... It makes me really angry. It makes me really sad.”

B.G. works two jobs, for 55-60 hours a week. She will soon graduate from college and has a job offer in engineering, which she sees as a path out of poverty; her pregnancy would be incompatible with the job’s physical and travel requirements. B.G. said she is not emotionally or financially prepared to have a child because she is the primary provider for herself, her mother, and younger siblings. B.G. grew up with a single mother who was sometimes “very emotionally unstable just because ... she had to go do so much for all of us. ... [W]e didn’t receive that much love when I was a young kid.... [I]t’s very hard for me to ... [repeat that process].”

After learning she could not have an abortion in Texas, B.G. felt “very vulnerable” and said it was “very

stressful and very hard.” B.G. said, “I thought I was so early, so I was just very shocked that they told me I was six weeks pregnant.” She is concerned about the travel costs to get an out-of-State abortion, in addition to her regular bills. B.G. says S.B. 8 is “very, very unfair” and that legislators “just need to hear us out for once and actually hear us, actually listen to us.” B.G. hopes a court could “for once, support women and be on our side[;] help women because we are the future, as well, of this country, of this State.”

E.M. tracks her periods on a phone application but they are irregular, and her pregnancy was “further along than [she] anticipated.” Because of S.B. 8, her only option for an abortion is to leave Texas.

E.M. said, “I throw up every day. ... It is awful.” Her “throat is burned” and she struggles to “get through work.”

She is concerned taking time off work to travel for the abortion could affect her retail job since there are “blackout dates for three months where [she] can’t ask for time off.” She struggles to cover expenses and lives paycheck-to-paycheck.

Only E.M.’s partner knows she is pregnant. E.M. thinks her partner suffers from undiagnosed mental illness. She is not sure whether he will travel with her, and she cannot ask anyone else because the abortion is “not something [she] really want[s] to disclose to [her] family.” She considered using a ride service or taxi but the idea “is scary” because she would be in a car alone “with a stranger [as she is] coming off anesthesia.”

E.M. said it is “very frustrating” that people in power get to “call[] the shots, but from the outside look-

ing in” when those decisions “have such heavy impacts on people going through something that [they] will never go through.”

C.N. and her husband live in East Texas with their five children, the youngest of whom is an infant. She knew she wanted an abortion “[t]he second [she] saw the positive test.” Her husband “knows that [she] did not want to be pregnant, and he has an appointment ... to get a vasectomy.”

Even though C.N. was less than six weeks pregnant, an ultrasound revealed embryonic cardiac activity. She was incredibly disappointed and frustrated, having already driven over two hours to the appointment with her children, who waited in the car while she was in the clinic. C.N. is considering traveling to Louisiana or Oklahoma for an abortion, even though she would likely have to take her children with her. She said, “I used to love living in Texas. Now I hate it. It feels like we’re prisoners. ... I never thought I would ever have to have an abortion, but I have my own reasons and ... it’s not fair that I can’t have that right.”

A.P. is 23 years old and works as a manager in a store. She feels too young and not ready financially to have a child. She was experiencing bleeding and cramping. As of the day she was interviewed, A.P. had already been to the health center three times and the emergency room twice, trying to determine whether she had an ongoing pregnancy (and thus would be subject to S.B. 8), an ectopic pregnancy, or was having a miscarriage. However, A.P.’s ultrasound and blood tests remained inconclusive for pregnancy. The physi-

cian advised her that normally she would have the option to wait before having a procedure that might turn out to be unnecessary. But A.P. knew that if she waited, a sonogram might show embryonic cardiac activity, and then, because of S.B. 8, she would be “stuck like everyone else.” She also feared having to attempt to drive to Louisiana while bleeding heavily. For that reason, she decided to return a fourth time to the health center for a procedure she might or might not need, rather than wait as she otherwise would have.

A.P. explained she went through “a process to decide” to end the pregnancy. She added, “I’ve always been the type of person to want to bring another life into this world, but I want to be ready for it. And I know nobody’s ever ready, like there’s never the perfect time, but I don’t [want to] bring a child into the world and have it suffer because I haven’t got everything together.”

Because of the extreme time constraints set by S.B. 8, A.P. felt pressured to quickly decide whether to have an abortion. A.P. said, “Everybody’s situation is different, and I think maybe that they really only focused on certain aspects of the law. They didn’t look at every single individual that’s ever had an abortion. There’s millions of reasons to have one, and I don’t think they took that all into consideration.

C.T. is 18 years old and is working to pay for college and is “kind of doing it all on my own.” At the first visit to the health center required by state law, C.T. was exactly 6 weeks pregnant, with no embryonic cardiac activity. She felt “shock,” “panic,” “very scared,” and “[she] just want[ed] to cry” about the possibility that she may not get an abortion if there is detectable

embryonic cardiac activity at her next appointment, which could not occur until at least 24 hours after her initial visit as required by Texas state law.

C.T. said that trauma from her past “still affects [her] to this day” and she is not “emotionally or mentally able to take care of a child.” She explained, “[I]f I’m not able to get the operation then I’m stuck with [a child] I can’t really financially take care of, emotionally take care of.” Being forced to give birth would likely foreclose her “really big plans to go to college” and start her own business. She fears she will “blame” or “put [her] trauma” onto the child, though she hopes to one day have a child when she has a “home of [her] own” and a “better job.”

A.D. is a 35-year-old social worker and doula. The soonest she could be seen after a positive home pregnancy test was “a week out, which put [her] at eight weeks.”

A.D. was aware of S.B. 8 and upon learning she could not receive an abortion in Texas, she considered going to New York for the abortion, where she has “good friends” and “a place to stay,” and where there is a “political climate of being slightly more embraced in the circumstance.” A.D. said “if they could see me soon ... I’d book a flight,” but “driving is also a safety precaution” because “we’re still in a pandemic.” “[B]eing asked to shuffle all over the country” to get an abortion” concerned her. She also “just started a new job” and worries that asking for time off would “run the risk of disciplinary action or termination.” She said, “I’m very angry. I feel like I’ve been thrown out into the forest, like go figure it out.” A.D. added, “Even though I have the ability, it’s not fun. Having to call many clin-

ics. It's a vague and ambiguous system. I'm going to have to figure it out. I'm at a loss, like where do I begin."

A.D. said, "I felt guilt and shame as this legislation intended" and emphasized, "[I]t's important that [S.B. 8] is cruel by design. Targeted toward working moms, Black women and women of color. The ripple effect due to generational trauma."

B.K. is a teacher in her early twenties who "love[s] kids" and enjoys soccer and boxing. She was distraught when she learned she was pregnant, so much so that she was unsure whether she had morning sickness or nausea from anxiety.

B.K. said there was a scarcity of appointments at abortion clinics and felt that she "was trying to beat a clock" with "the test, the ultrasound, and the abortion." Her first ultrasound appointment was cancelled and she rescheduled for two days later. However, she unintentionally ended up at a clinic that was opposed to abortion, which "tried to convince her not to" when she "told them [she] wanted an abortion." A staff member at this clinic shamed her by saying, "[I]t was your choice to lay on your back." B.K. knew she "wanted an abortion right away," and felt that she was "running out of time." B.K. even considered purchasing an "abortion pill" online from Pakistan, but ultimately decided against it because the pill was not FDA-approved.

B.K. secured an appointment with an abortion clinic during the fifth week of her pregnancy, which was a relief because she was unsure how she would explain her need to travel out of State while still keeping her

decision within her limited circle of trust. B.K. said she could not “imagine how many girls had to go through this” and emphasized that “it actually caused them harm.”

E.K. is 30 years old and “currently trying to finish school.” She has two boys but she “do[es]n’t really communicate” with their father. She is “currently dating someone else” but “with all the Covid related things going on, [they]’ve both been in a bind.” She “was fired last November” after her “children were exposed to Covid and [they] were ordered ... to quarantine.” She said, “I thought I was doing my part by quarantining. But they fired me. I haven’t been back to work since then.” The person she is dating also lost his job because his employer “ended up shutting down” during the pandemic.

E.K. was “exactly six weeks pregnant” when she had an ultrasound and learned she could not have an abortion due to S.B. 8. She remarked, “It’s sad because I would have [come] last week but I didn’t have the money until this week.” Since E.K. “was 14, my periods have been irregular. I have them every two months just about. If I missed a period it was nothing to me. I had no symptoms except swollen breasts which led me to take the test.” She said being pregnant is “not a good time for [her]. It’s scary to know a lot of people don’t find out they’re pregnant or have symptoms until 3-4 weeks. It gives them no time to make a decision to continue or terminate.”

E.K. said, “It’s heartbreaking to know the right and option has been taken from me at such an early age.” “I am in shock.” E.K. added, “I thought I had time but I just found out. At the moment I’m a little

overwhelmed with everything going on. It sucks because they say this is the land of the free but they take so many rights from you” that it is “not fair at all. When it comes to a certain criteria of people, upper-echelon people, they have more options that people down here don’t have. Even if rich people don’t want to take care of their child, they can hire nannies. The people who don’t have the money, we’re stuck trying to take care of ourselves, children if we have them, and really just trying to survive. Our voices matter.”

Y.R. came to the United States a few years ago “for a better life.” Her husband is the sole provider for their family of four and they make “\$1500 a month before taxes are taken out.” After she received a positive home pregnancy test, she “immediately told [her] husband” and they “both agree[d] that this isn’t the right time to raise another child. We can barely make it as it is now.”

Her ultrasound at Planned Parenthood showed that she was a few days past six weeks pregnant even though she had just started to experience symptoms. She said, “[B]ecause of Texas’s horrible new law S.B. 8, my doctor informed me that they wouldn’t be able to proceed with my abortion.”

Y.R. explained, “S.B. 8 is so unjust and unfair because it attacks people like me who are low-income and can’t travel to another State to get an abortion. Now I have to look to see the nearest State we can drive to because I can’t afford to buy a plane ticket. My husband and I will need to find [a way] to pay for gas, and he will also miss work. That means his check will be short, and we already struggle to pay bills. On top of that, we don’t have anyone to take care of our kids, so

we will need to bring them along. They will be missing school, and they are only in first and second grade. They have already missed so much school because of this pandemic.”

Y.R. “want[s] to tell the judges: You are here to protect the people, and that means don’t take our rights away. This law is unjust and unfair because we as women know if we can or cannot bring life to this world.”

Clinic staff also report stories of patients affected by S.B. 8. C.Y. in Houston recalls a patient with five children (two of whom have disabilities) who had embryonic cardiac activity at just five weeks, four days pregnant. The patient frantically pleaded, “What am I going to do, what is going to happen now?” Another patient who cannot read or write told staff that going out of State would be impossible.

C.Y. saw a thirteen-year-old patient who had to go through the judicial bypass process Texas imposes on minors who do not have parental consent for the procedure before scheduling an abortion. Having to seek a bypass delayed the thirteen-year-old patient and by the time she was able to be seen at the abortion clinic, embryonic cardiac activity was detected at six weeks and three days. She cannot leave Texas without her parents knowing because she cannot drive.

E.V. in Houston cried with her first patient after S.B. 8 passed. The patient had detectable embryonic cardiac activity on the day of her scheduled procedure after having none the day before.

E.V. also spoke of a minor patient whose mother only spoke Spanish. Neither the mother nor the pa-

tient had been to another State and could not understand why they needed to leave Texas for an abortion or what would be required.

A.S., in Dallas, recalled a patient who was on probation and had no idea how she could leave the State.

K.D. had a patient who “put oils in her vagina” to try to terminate her pregnancy and worries S.B. 8 will force more people into “back-alley ways.”

I.O., in Houston, spoke of a twelve-year-old patient who came in with her mother, a single working mother with other children. The mother said they could not travel out of State—they had barely made it to the Texas health center. The twelve-year-old said, “Mom, it was an accident. Why are they making me keep it?”

L.D., a San Antonio physician, had a patient who was undocumented and felt unsafe traveling out-of-State. She would likely be forced to carry her pregnancy to term.

B. Patients Encounter Obstacles To Receiving Out-Of-State Care

H.S. has two young children and recently separated from her husband. H.S. “couldn’t afford another [child]” and “do[es]n’t want to bring a child into the world like this.” She could not get a health-center appointment until a week after the home pregnancy test, and a hurricane caused further delay. At her appointment, she was six weeks pregnant with embryonic cardiac activity. The earliest out-of-State appointment was in Tulsa. She drove nine hours overnight and booked a motel to sleep for a few hours.

W.M. is a college student in Austin and has one child already. She went to an emergency room for symptoms she thought were related to migraines, which she suffers from. But there she learned she was 7 weeks and 2 days pregnant. She has hyperemesis gravidarum, which means she cannot keep food down “for days at a time.”

She knew “immediately” she wanted to have an abortion. She said, “I want to finish school. It is hard. It is hard on my body. Plus financially.” W.M. and her partner want to afford the best life possible for their young daughter. She thinks S.B. 8 is “forcing women into situations to have more than one child when they can’t possibly provide” financially. Only her partner has a job and he had to miss two days of unpaid work to travel with her to Oklahoma. They also spent money on a hotel room because they brought their “daughter and wanted somewhere safe to spend the night.” She believes abortion is sometimes “the most responsible ... or right thing to do.”

T.K. suffers from a chronic disease for which she has been unable to get medication for eight months. She fears “having a baby would probably kill [her].”

T.K. said she is not financially stable enough to raise a child. Having grown up in poverty, she “[doesn’t] want that cycle to happen again.” She noted that baby formula costs \$18 per canister but she barely earns over \$20,000 a year.

As a child, T.K. was sexually abused in the care of extended family. She would not trust anyone to care for her child given the abuse she suffered. She was relieved to secure an out-of-State abortion, but was wor-

ried that because of S.B. 8, “they’d be waiting to drag [her] off to jail when [she] got here because [she’s] from Texas.”

Had she not been able to get an abortion, she would “be looking online to see if there’s something [she] could eat that would [terminate the pregnancy], or throw [herself] down the stairs.”

Now that her youngest of five children is a teenager, T.Z. has finally been able to focus on building a career in education. When T.Z. learned she was pregnant again, she felt “nervous like [she] was back as a teenager” and pregnant with her first child. T.Z. is in her early forties and did not have any pregnancy symptoms. She remarked, “How am I gonna do this? I didn’t realize people this old could have kids. In 10 years from now, how old am I gonna be? I want to see the progress of my child, just like I did the others. It’s scary to start all over again.” T.Z. decided to have an abortion, but by the time she made it to Planned Parenthood in Texas, the clinic could not help her because of S.B. 8. She was frustrated because she had asked for a tubal ligation years prior but her doctor refused, stating that she was too young, and felt that if they had listened to her, “we wouldn’t be doing this.”

T.Z.’s husband was unable to take enough time off work to drive her to an abortion clinic in Oklahoma, so he told her to fly there. She said this experience was “scary ... This is my first time flying. I was nervous in the airport.” To drive her home from her procedure, T.Z.’s husband woke up at 4 a.m., worked an early shift, drove to Oklahoma, and then immediately drove back to Texas with T.Z. after her appointment was over so that he could be at work the next morning.

T.Z. is upset about the extra time, money, and stress that travelling out of State for her abortion cost her and her family. She said, “We should be able to have this in our state, it’s harder for us to do it. ... They are giving us too little time to decide. We don’t even know we’re pregnant and they give us a certain amount of time to make that decision.” Even so, T.Z. felt “relieved because now this came through and I can end the pregnancy. I can look forward for the plans I have for myself.”

J.T. is in her mid-thirties with seven children, and recently lost employment when they contracted Covid-19. She explained that she “can’t have another child” and that her “seven children come first.”

J.T. was too far along to have an abortion in Texas and considered buying “pill[s]” online. With Mississippi appointments booking nine weeks out, J.T. woke up at 4 a.m. to drive six hours to Oklahoma. She split up her children among various caretakers. She said that hotel, food, and gas “took away over half of what I make in the month. ... I looked up my bank account before I walked in [to the clinic].” She also said had she gone to a clinic closer to home, “I could be done and making dinner for my children.”

K.S. works in sales and attends management school. S.B. 8 forced her to travel to Oklahoma.

She and her husband support many family members on a monthly income of under \$2000, but had to take several days of unpaid leave to make the “scary” 10-hour drive to Oklahoma with their infant, reaching

their hotel at midnight. They had to drive through the night again to get home after the abortion.

P.N. is a 37-year-old woman who previously struggled as a single mom. She has been with her current partner for more than eight years, and he is “so good” with her daughter. Her partner “has a lot of health issues” and struggles with addiction. Together they agreed that they “didn’t feel confident that he would be able to give up all of the things that [she] would need to be able to have this child.”

P.N. stated she and her partner “thought about every scenario,” “weigh[ed] [their] options” and “both ended up agreeing without question that this would be the best option.” By the time they decided to have an abortion, P.N.’s only option was to travel out of State. She said: “I had to lie and take off of work. And so I just started [at the job], so it wasn’t like a day that you get paid for or anything.” She was worried because she “do[es]n’t [want to] leave a bad impression when [she] just started.” P.N. felt she did not have anyone to confide in. Only her partner, who went to the clinic with her, knew she was getting an abortion. She said, “it’s difficult, it’s not an easy decision to make altogether, it really isn’t.” Regarding the emotional and logistical challenges of getting an abortion, P.N. said, “You know it’s something that I think for any woman that has to go through it, it’s something that you...just want to get it over with.... But again ... I still feel very fortunate and..., you know, I think of all the other girls that ... aren’t as fortunate as I am to be close enough to a city where they’re able to do this ... procedure in a safe manner.”

T.I. recently earned her MBA and works full-time. T.I. “was in utter shock,” upon learning she was pregnant. She “use[d] protection and ... never had any scares before.”

Although eligible for an abortion in Texas, T.I. traveled to Oklahoma due to anxiety caused by S.B. 8 about “getting found out by the State of Texas.” She also “didn’t want this on [her] bank statements, so [she] sold miscellaneous items in [her] house to have enough cash[.]” She emphasized, “It is a very scary time.”

M.K. and her husband lost their jobs in the pandemic. M.K.’s health insurance through her employer had been covering the cost of birth control but when she lost her job “it was either the main bills, or paying for my pills. And I couldn’t pay for my pill anymore because I was trying to pay for school and some bills to survive.”

Her husband had “a bad reaction, he was very upset” when she told him she was pregnant. Because they “don’t have the money” to raise another child, she “googled how to have an abortion,” and “was trying to do home remedies” but it “wasn’t working.”

M.K. contacted Planned Parenthood and learned she could not have an abortion in Texas due to S.B. 8. She stated, “I was sad and disappointed. And I was kind of desperate, looking for another option like a plan B.”

M.K. felt “relief” getting an appointment in Oklahoma. However, she was “nervous” and “worried” about “flying back” and “mak[ing] it on time to the airport.” M.K. arranged childcare with her mother-in-law, who did not know about her appointment. M.K.’s hus-

band has “different views” and is “not supportive of this.” But, she said, “it’s not the right time, and he knows it.” M.K. would not “be able to give [a baby], you know, protection, or shelter” or the “time that they deserve.” Still, she is “very nervous about being able to keep [the abortion] a secret.”

M.M. is 20 years old and works 60 hours a week as a manager in a fast-food restaurant in north Texas. She took a home pregnancy test a week after her missed period, and it was positive even though she was using condoms and had also taken Plan B. M.M. noted, “My job takes a lot out of me. I can barely take care of myself.”

Embryonic cardiac activity was detected at M.M.’s ultrasound appointment in Texas. M.M. “was in shock.” She said, “It was overwhelming. I did catch it early. I watched the signs for my body. I did take Plan B. I started crying.” She decided to travel out of State, and woke up at 4 a.m. to drive the four hours to Oklahoma. M.M. said for the abortion plus travel costs, “[i]n the end, it’s going to cost \$1000-\$1500.” She noted she just moved and is still “missing furniture” and that the “check engine light is on right now in [her] car.” “I’m going to be back recounting money to make sure I can get by.”

M.M. said, “I grew up knowing that I have an option and it was taken away from me at [age] 20. We are going back instead of progressing. You learn about *Roe v. Wade* in school. Why would you take that away? And to have more people struggling? If I was to have this child I wouldn’t be able to take care of it anyway. That’s not the best option to me.”

S.S. is a 26-year-old married mother of three from a suburb of Houston. She was taking birth control pills, but they failed. She wants an abortion because she and her husband both work a lot and “we want to be able to give our children all the attention they need.” She also does not have health insurance because she is self-employed.

She never contacted a clinic in Texas because she believed none of them were providing abortions due to S.B. 8. She contacted a clinic in Oklahoma and was able to get an appointment 2-3 weeks later.

She woke up at 3 a.m. to drive seven hours to Oklahoma City for her abortion, after having gone to bed at 1 a.m. following a shift at her cleaning company. S.S. and her husband brought their children with them, which required the children to miss school, because they did not have someone to care for them in the afternoon. They were planning to drive home after the abortion and S.S. had to work later that evening.

S.S. said, “I feel like judges should think more about people’s needs. ... There are so many reasons, and you don’t know the woman’s reason why she would need an abortion and you shouldn’t be a part of that You should always be able to have a choice. It isn’t something minor. A baby changes the course of your life. ... And being married doesn’t mean I am ready to [have] more kids. ... There is nothing else I can do for now.”

G.L. learned on September 1 that she was pregnant at an appointment she scheduled to get birth control. She has two children already, but her grandmother has

custody of them. G.L. is recovering from drug addiction and is “two months clean.” G.L. “freaked out” when she learned she was pregnant. G.L. is “new to sobriety,” and she worries, explaining, “I can’t even take care of myself.”

The earliest G.L. could get an appointment for an ultrasound was an “agonizing” week and a half later. G.L. was “praying there wasn’t a heartbeat.”

G.L. recalls looking at the doctor and nurse during the ultrasound and the nurse “just closed her eyes and walked away and [took] her gloves off, and I knew what that meant”—there was embryonic cardiac activity. G.L. “started crying, like having a panic attack.” G.L. feels S.B. 8 is “inhumane” and “heart-breaking.”

G.L. had to ask her sobriety sponsor to accompany her, and they drove eight hours each way to the Oklahoma City clinic. Even with financial assistance, G.L. estimates it will cost her \$1,000 between the ultrasound in Texas, the hotel room in Oklahoma, gas for her sponsor’s car, and the abortion; G.L. said, “[i]t means I’m going to be broke.” Still, G.L. feels “so grateful” to have been able to get an appointment.

Some patients have encountered police while traveling to have an out-of-State abortion, adding to their stress. R.T. was pulled over on her way to Oklahoma. She said, “It was very scary. [The police] made my boyfriend get out of the car, and my boyfriend is African American. ... I was so scared. He asked me where I was going, and I told him to Planned Parenthood, and I have never driven here, I don’t know the rules. ... I was in a rental car. ... But now he [was] saying, ‘Which Planned Parenthood?’ and I thought, ‘What do you

want me to say?’ That I am going to get an abortion?’” G.O. was also stopped; the police officer asked her, “All the way from Dallas to Oklahoma for a doctor’s appointment?” She responded that it was “personal.”

B.Z. made an appointment for a pregnancy consultation at an “options clinic” that was (unbeknownst to her) against abortion. The staff told her she needed a sonogram, but could not have it performed for one week. They did not tell her that this delay might make her ineligible for an abortion under S.B. 8. At her second appointment at the options clinic, B.Z. was exactly six weeks pregnant and suffering from extreme morning sickness. B.Z. said, “[The clinic staff] didn’t care if I wanted to or could have a baby. She wasn’t even worried about how I was so sick.”

B.Z. was diagnosed with hyperemesis gravidarum at an emergency room. The physician told her that it could be a difficult pregnancy, but that leaving Texas was her only option if she wanted an abortion. “It was nerve wracking of how am I going to handle the drive? Can I make it there without throwing up in the car? ... [W]hat happens if something goes wrong in a State I’ve never been to, with my mom so far away?” She estimates the travel and procedure cost her \$800, which she paid out-of-pocket to maintain her privacy from family members on her insurance plan. She missed almost two weeks of work due to illness from the pregnancy. B.Z. said: “I have a vision of what I want my life to look like... . If I want this vision of my life to happen, being a single mother for a man [who won’t be around] is not what I deserve.”

W.H. is saving money for school. Her “periods are irregular, so it was difficult to tell” she was pregnant. She said, “I was just taking pregnancy test after pregnancy test and they would come out false... . I felt like something was off. I kept waking up nauseous and just having symptoms. So I kept taking them and then finally I got a positive.”

She went to a “pregnancy center” in Texas and learned she was five weeks pregnant. Unbeknownst to W.H., the center was against abortion. W.H. said the center “didn’t help us at all” and insisted “adoption was [] essentially the only way we could go.” W.H. felt the center staff “weren’t listening” and she “wasn’t being heard” after telling them she wanted an abortion. W.H. knew that by the time she could get an appointment with an abortion provider in Texas, it “would have been too late.”

W.H. and her boyfriend decided they could not afford to have a child; they were struggling to find a place to live and can barely afford a one-bedroom apartment. “We’re having a lot of life issues. Like with the car breaking down, and then his mother losing her job as well my mother kicking me out already.” W.H.’s friend has a car and drove W.H. and her boyfriend to an abortion clinic in Oklahoma. Despite wanting to talk with others about their decision to have an abortion, W.H. said, “we’re just trying to keep it as small of a circle as we can so that nobody else gets hurt” by S.B. 8.

R.G. is a mother of two children. She is currently unemployed and feels that she is “in a position where I’m not able to be a new mother. I am already struggling to keep that afloat as it is.” She said, “I lost my job back at the end of March. I had caught Covid as

well. That was a big scare and I mentally had to rebuild myself.”

Back in July, R.G. “got into an accident” and her “cycles are irregular so [she] lost track of them.” She said, “[w]hen I’m under stress, I miss them as well.” When she learned she was pregnant, but could not get an abortion because of S.B. 8, she was “shocked. I was sad. I was depressed. It took me a few seconds to process. I felt helpless. I broke down because I was at an unstable point in my life.” It was a “really traumatizing experience.” As she was leaving the clinic after her ultrasound appointment, she overheard a patient say they were going to “buy these herbs” to try their own method to have an abortion.

R.G. called around “right away” to different out-of-State clinics and tried to get an appointment in New Mexico, but they could not get her in for weeks. She eventually got an appointment at a clinic in Oklahoma. “I literally almost gave up. I was just gonna suck it up. That’s what happens when you live in Texas.”

R.G. had to make the 300-mile drive to Oklahoma alone, and said it “was stressful” and “there were so many obstacles in [her] way of getting [t]here.” She spent \$250 on a rental car, plus additional money on gas. She also had to pay \$50 for a babysitter to help with her kids: “I have to pay a sitter to watch the little one and pick up the older one and order them something to eat.... I’m pulling strings right now getting it done.” R.G. had to “push back” paying her bills in order to cover all of the costs related to the abortion.

R.G. said, “This is the craziest law I’ve heard of in my life” and “makes me feel attacked, honestly. Women are being attacked right now.” She noted that “not everyone can pull strings to get [out of State]” and felt

like “one of the lucky ones who [was] able to make it out” and it was “a relief.”

S.A. learned she was 6 weeks pregnant while she was in the hospital battling Covid-19, which “hit [her] hard.” She has a 5-year-old daughter, and also cares for her ailing parents and her grandmother who is “near death.”

S.A. “knew right away” she wanted to have an abortion. She said, “I’m not anywhere prepared financially, mentally or physically” to have a baby. S.A. says her ex-boyfriend is “terrible,” and “he’s not the person I would want to be attached to for the rest of my life.” S.A.’s parents struggled with drug addiction throughout her childhood, and her siblings were taken away by the State. S.A. “bounced around to different people, different schools” and “saw a lot of bad things.” S.A. said, “It’s a cycle. I’m already struggling to be a good mom, learning from my parents and trying to do the opposite. And then another one? I don’t want to be stressed, have mental issues. I don’t want to repeat the cycle.”

S.A. “was calling and googling” abortion clinics in Texas but three places said she was “too far along ... because of [S.B. 8].” She planned to have her abortion at a clinic in Oklahoma City but got a flat tire on the drive there and missed her appointment. She then re-scheduled at the farther Planned Parenthood in Tulsa but due to the delay, she was no longer eligible for a medication abortion.

To travel for an out-of-State abortion in Oklahoma, S.A. had to miss work and is “on thin ice” with her employer. She is “flat broke” and is worried because “eve-

rything I have depends on this job.” She has missed work due to her severe morning sickness, and was “punished by shift changes” and given a shift that ends at 10 p.m., which affects babysitting schedules and spending time with her daughter.

Despite the hardship of getting to Oklahoma and back, S.A. feels like it was the best option for her. S.A. said S.B. 8 “literally sickens” her, explaining, “People don't have to agree with what you have to do, but you should have a choice. As women we are getting more and more held back to not making a choice. I would be forced to have a child that I don't feel like would have the best life.”

Planned Parenthood staff in Oklahoma and Colorado also reported the following stories:

S.W. had one Texas patient who got pregnant right after giving birth, and another who had been raped and was terrified that she would be unable to get an appointment.

C.H., an employee in Oklahoma, similarly reports seeing Texas patients who drove ten hours through the night. Another of C.H.'s patients who said she needed to leave the clinic by a certain time in order to get home to ensure her husband did not find out—but the clinic could not guarantee her departure time.

Physician C.Z. reports of a patient who flew into Denver, rented a car to drive to the clinic in Fort Collins (where the earliest appointment was available), only to discover at her appointment that she had a complicating factor, which required her to drive back to Denver to have the abortion. The Denver staff

squeezed her in that day so that she could have an abortion in time to make her return flight.

H.R., a nurse in Oklahoma, said many patients are “coming [to Oklahoma] with a sense of desperation.” She recalls a patient who suggested she had been so desperate for the abortion that she would have undergone an abortion performed by someone who was not a “real” healthcare professional if she had not secured care at the Oklahoma clinic.

Nurse practitioner T.W. saw a young teen who came from Texas to Oklahoma after being raped and impregnated by her father. Unfortunately, the family member taking care of her lacked the guardianship forms to be able to consent to the abortion, and they had to turn her away.

C. S.B. 8 Traumatizes Healthcare Providers

C.Y. and her colleagues feel helpless, admitting they cry after nearly every patient they turn away; this is the hardest job she has ever had. I.O. says the inability to help her patients makes her feel like her heart “has been snatched out of [her] chest.”

A.N., a Houston physician, broke her arm on a Sunday evening and drove herself to the ER so she could work on Monday because she could not risk delaying care for patients.

K.D. says “it’s emotional, it’s hard” to “tell the patient they can’t get their care.” I.O. despairs: “It’s heartbreaking. ... We [don’t] know what happens to these patients.”

Staff in neighboring States are also affected. Tulsa-based H.R. reports that Texas patients now comprise the majority of their patients. Oklahoma staff are

working over-time to care for Texas patients denied abortions. H.R. says Texas patients “com[e] with a sense of desperation.” The prolonged hours her team has been working are not sustainable. C.Z. echoed concerns about the stress this puts on staff in New Mexico and Colorado “[b]ecause the care is so intense.”

H.R. says clinicians cannot offer pain medication or sedation to patients who must drive themselves home after the procedure. Supplies are depleting quickly because they are providing extra menstrual and heating pads for the long drives back to Texas.

According to T.W., “there is no family planning clinic a lot of days because their abortion roster is so full right now.” T.W. also notes many patients speak Spanish, but unlike providers in Texas, Oklahoma providers are not generally bilingual.

T.W. says the situation under S.B. 8 is “dangerous.” Oklahoma nurses are triaging patients by phone, including with potentially life-threatening ectopic pregnancy. Some patients express concern about seeking care in Texas after an out-of-State abortion if they experience complications. S.W. says patients ask, “[Are we] going to get sued? What’s going to happen to [us]?” H.R. says, “I started in abortion care twenty years ago. ... [W]e are [now] in a worse place in terms of our ability to treat patients In health care we are supposed to be constantly ... improving how we provide care. And that is not what is happening. It’s worse. ... And our patients feel it.”

T.W. says, “These Texas patients are uniformly terrified,” and S.B. 8 “makes women feel like there’s a bounty on their head for receiving health care. With a \$10,000 incentive to turn people in ... it is endangering the lives of women.”

CONCLUSION

The United States District Court for the Western District of Texas's injunction should be affirmed.

Respectfully submitted.

DIANA O. SALGADO
CARRIE Y. FLAXMAN
PLANNED PARENTHOOD
FEDERATION OF
AMERICA, INC.
1110 Vermont Ave., NW #300
Washington, D.C. 20005

JENNIFER SANDMAN
PLANNED PARENTHOOD
FEDERATION OF
AMERICA, INC.
123 Williams Street,
10th Floor
New York, NY 10038

ALAN E. SCHOENFELD
Counsel of Record
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
(212)-937-7294
alan.schoenfeld@wilmerhale.com

SARAH B. PETTY
MICHAELA P. SEWALL
NINA B. GARCIA
RACHEL BIER
ALICIA M. CONEYS
LABDHI P. SHETH
CHARLOTTE E. MOSTERTZ
ASMA S. JABER
WILMER CUTLER PICKERING
HALE AND DORR LLP
60 State Street
Boston, MA 02109

CAITLIN DEVEREAUX
WILMER CUTLER PICKERING
HALE AND DORR LLP
350 South Grand Ave.,
Suite 2400
Los Angeles, CA 90071

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