No. 20-11401

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

STEVEN MARSHALL,
in his official capacity as Attorney General of the State of Alabama, et al.,
Defendants-Appellants,

v.

YASHICA ROBINSON, et al.

Plaintiffs-Appellees.

On Appeal from the United States District Court
for the Middle District of Alabama
No. 2:19-cv-00365-MHT-JTA

BRIEF OF AMICUS CURIAE FOUNDATION FOR MORAL LAW IN SUPPORT OF DEFENDANTS-APPELLANTS SEEKING REVERSAL

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CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1 and Eleventh Circuit Rules 26.1-1, 26.1-2, and 26.1-3, counsel for *Amicus Curiae* Foundation for Moral Law, Inc. represents that it does not have parent entities and does not issue stock. Counsel further certifies that, to the best of his knowledge, the following persons and entities who have an interest in this case and have not yet been listed in the CIP's presented to this Court so far are:

1. Clark, Matthew James – Counsel for *Amicus Curiae*
2. Eidsmoe, John – Senior Counsel, Foundation for Moral Law
3. Foundation for Moral Law – *Amicus Curiae*
4. Moore, Kayla – President, Foundation for Moral Law
5. Moore, Roy – President Emeritus, Foundation for Moral Law.

To the best of counsel's knowledge, the other persons and entities with an interest in this case, which have previously been listed in the CIP in the State's opening brief or are otherwise reflected on the Court's docket, are:

1. Adams, Hon. Jerusha T. – Magistrate Judge for the Middle District of Alabama;
2. Alabama Women's Center – Appellee;
3. American Center for Law and Justice – Amicus Curiae;
4. Bailey, Daryl, D. – Defendant;

5. Beck, Andrew – Counsel for Appellees;

6. Billingsley, Dana Helton – Former Counsel for Appellee Scott Harris;

7. Boone, Brock – Former Counsel for Appellees;

8. Bowdre, Alexander Barrett – Counsel for Appellants;

9. Broussard, Robert L. – Defendant;

10. Burrows, Meagan Marlis – Counsel for Appellees;

11. Cameron, Daniel – Attorney General of Kentucky, Amicus Curiae;

12. Carr, Danny – Defendant;

13. Chynoweth, Brad A. – Counsel for Appellants;

14. Civil Liberties and Public Policy Program – Amicus Curiae

15. Cohen, Marcia S. – Counsel for Third Party Movant;

16. Dasgupta, Anisha – Counsel for Amici Curiae

17. Davis, James William – Counsel for Appellants;

18. Doyle, Hon. Stephen Michael – Magistrate Judge for the Middle District of Alabama;

19. Fitch, Lynn – Attorney General of Mississippi, Amicus Curiae;

20. Flaxman, Carrie Y. – Counsel for Appellees;

21. Greater Birmingham Chapter of the National Organization for Women – Third Party Movant;

22. Hale, Phillip Brian – Attorney for Appellant Scott Harris;

23. Hall, John Edward – Counsel for Amici Curiae

24. Harris, Scott – Appellant, Alabama State Health Officer;

25. Hill Jr., Curtis T. – Attorney General of Indiana, Amicus Curiae;

26. Hunter, Eric Wilson – Attorney for Defendant;

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28. In Our Own Voice – Amicus Curiae

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44. National Advocates for Pregnant Women – Amicus Curiae

45. National Alliance to End Sexual Violence – Amicus Curiae

46. NAACP – Amicus Curiae

47. National Black Women's Reproductive Justice Agenda – Amicus Curiae

48. National Coalition Against Domestic Violence – Amicus Curiae

49. National Council of Jewish Women – Amicus Curiae

50. National Domestic Violence Hotline – Amicus Curiae

51. National Network to End Domestic Violence – Amicus Curiae

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53. Paxton, Ken – Attorney General of Texas, Amicus Curiae;

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55. Planned Parenthood Southeast, Inc. – Appellee;

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57. Reproductive Health Services – Appellee;

58. Reyes, Sean – Attorney General of Utah, Amicus Curiae;

59. Rich, Ashley – Defendant;

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71. Thompson, Hon. Myron H. – Judge for the Middle District of Alabama;

72. Transformative Justice Coalition – Amicus Curiae

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75. Webb, Hays – Defendant;

76. West Alabama Women's Center – Appellee;

77. White, Edward – Counsel for Amicus Curiae

78. Wilson, Alan – Attorney General of South Carolina, Amicus Curiae;

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IDENTITY AND INTEREST OF *AMICUS CURIAE*[1]

The Foundation for Moral Law ("the Foundation") is a public interest organization that defends the right to life and promotes an originalist understanding of the Constitution. The Foundation has an interest in this case because it involves the powers reserved to the States under the Tenth Amendment to protect the public health, safety, and welfare, which are needed during the COVID-19 outbreak. In addition, the Foundation believes that unborn children are "people" from the moment of fertilization and that Supreme Court's abortion jurisprudence has no basis in the Constitution.

The Foundation believes that its brief would be useful to this Court because this Court's sister circuits have mostly ruled against the States in similar appeals. This brief seeks to succinctly discuss those cases and explain why the present case is distinguishable. Understanding the differences between those cases and the present case will help the Court eliminate confusion and evaluate this case on its own merit. The brief would also be useful because it warns the Court that extending the Supreme Court's abortion decisions beyond their scope in this case would undermine the rule of law and cause the loss of innocent human life.

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[1] All parties have consented to the filing of this brief. Rule 29, Fed. R. App. P. Counsel for a party did not author this brief in whole or in part, and no such counsel or party made any monetary contribution to fund the preparation or submission of this brief. No person or entity other than *Amicus Curiae* and its counsel made a monetary contribution to fund the preparation or submission of this brief.

SUMMARY OF THE ARGUMENT

Rather than burdening the Court by repeating the State's arguments, the Foundation will focus its brief on the issue of whether similar decisions from this Court's sister circuits should have any bearing on this case. The Sixth and Tenth Circuits have both rejected appeals from states within their jurisdictions after federal trial judges temporarily restrained them from enforcing their COVID-19 emergency orders against abortion clinics. The Fifth Circuit, in contrast, mostly ruled in favor of the State of Texas when it twice petitioned that court for writs of mandamus directing the district court to vacate its temporary restraining orders. So at first glance, that's two circuit courts that ruled in favor of abortionists and one that partly ruled in favor of the state.

The Foundation maintains that the unfavorable rulings in this Court's sister circuits are distinguishable from the present case. The Sixth and Tenth Circuits based their decisions on jurisdictional grounds that are not present in this appeal. The portions of the Fifth Circuit's rulings that were unfavorable to the State depended on the standard of review, which is different in mandamus proceedings than it is when a party appeals from the entry of a preliminary injunction. This case is therefore distinguishable from the unfavorable decisions of other circuits. In contrast, the portions of the Fifth Circuit's decisions in favor of the State were based on the Supreme Court's decision in *Jacobson v. Massachusetts* and the fact

that the trial court did not have sufficient evidence to support the TRO—which are two of the State's main points in the present appeal. Thus, the favorable decisions from the Fifth Circuit are analogous to the present case.

In addition, an absurd result would occur if this Court ruled in favor of the abortionists. Under the State's emergency order, real constitutional rights, such as the right to free exercise of religion, have been materially infringed. It would therefore be absurd to carve out an exception from the order for abortion by stretching the Supreme Court's precedents beyond what they already say. If this Court carved out an exemption for a judicially created right while allowing real constitutional rights to remain infringed, then doing so would undermine the rule of law. It would also be the height of irony and injustice to hold that the one industry that exists to take life should be exempt from an order that is designed to save life.

ARGUMENT

I. The Unfavorable Precedents from This Court's Sister Circuits Are Distinguishable

A. The Present Case

The unique nature of the present case distinguishes it from unfavorable precedents in other circuits. To begin with, in the cases from other states, the governors had issued general orders forbidding all non-essential surgery and issued specific orders forbidding all abortions except those necessary for the life or health

of the mother. In Alabama, the State issued a general order forbidding all non-essential surgery but issued no order concerning abortion specifically. The district court's order below is based solely on one Alabama abortion doctor's claim that (1) she had been charged by the federal government and (2) she had faced protesters in Alabama. Neither she nor anyone else presented a shred of evidence suggesting that Alabama was preparing to take any action against her. Nevertheless, based only on the doctor's representation that she did not trust the State, the district court granted an injunction in the plaintiffs' favor. As the State argues, this places State officials in danger of contempt as they attempt to deal with a dangerous and rapidly evolving threat to public health.

After initially appealing the district court's temporary restraining order, the State agreed to a voluntary dismissal. Shortly thereafter, the district court issued a preliminary injunction in favor of the plaintiffs. The State appealed again, making it the first State in the country to appeal a preliminary injunction, instead of appealing a temporary restraining order or asking an appellate court for a writ of mandamus.

The State has already briefed the Court about the error of the trial court granting a preliminary injunction based on Dr. Robinson's testimony and its own speculation. It has also addressed how the Supreme Court's precedents apply to the issues presented, and the Foundation believes that the State has applied them

correctly.[2] Rather than burdening the Court with repeating the same points, especially given the time-sensitive nature of this appeal, the Foundation will briefly examine decisions from this Court's sister circuits that have ruled on similar issues, distinguishing the cases that are unhelpful to the Court while highlighting the decisions that would be helpful.

B. Jurisdictional Issues in the Sixth and Tenth Circuits

At the end of March, federal district courts in Ohio and Oklahoma entered temporary restraining orders that blocked the governors of those states from enforcing their emergency COVID-19 orders against abortion clinics. *Preterm Cleveland v. Attorney General of Ohio*, No. 1:19-cv-00360 (W.D. Ohio Mar. 30, 2020); *South Wind Women's Center, LLC v. Stitt*, No. 5:20-cv-00277 (W.D. Okla. Apr. 6, 2020). In both cases, the states appealed to the federal appellate courts in their jurisdiction. Neither state waited for the trial court to decide whether to grant a preliminary injunction or not.

The Sixth Circuit was the first to hear an appeal. As a threshold matter, the Court had to wrestle with whether it had jurisdiction. The Sixth Circuit noted that 28 U.S.C. § 1292(a)(1) grants federal appellate courts jurisdiction over "interlocutory orders of the district courts of the United States ... granting, modifying, refusing, or dissolving injunctions." *Pre-Term Cleveland v. Attorney*

[2] The Foundation expresses no opinion as to whether those precedents themselves were decided correctly.

General of Ohio, No. 20-3365, slip op. at 2 (6th Cir. Apr. 6, 2020) (quotation marks omitted; alteration in original). The Sixth Circuit has interpreted this statute to mean that it generally lacks jurisdiction over temporary restraining orders except under very limited circumstances. *Id.* The court found that those circumstances did not apply there because the district court resolved to take each matter on a case-by-case basis instead of allowing all abortion providers within that jurisdiction to perform abortions whenever they wished. *Id.*, slip op. at 3. Consequently, the appeal from the TRO did not constitute an exception that invoked the Sixth Circuit's jurisdiction at that time, and it dismissed the appeal. *Id.*

The Tenth Circuit reached a similar result. When the Governor of Oklahoma appealed the temporary restraining order against him, the Tenth Circuit recognized that temporary restraining orders are not appealable. *South Wind Women's Center LLC v. Stitt*, No. 20-6045, slip op. at 4 (10th Cir. Apr. 13, 2020). The only relevant exception that the Tenth Circuit recognized was when the order in reality operates as a preliminary injunction. *Id.* Having analyzed the question of whether a TRO could constitute a preliminary injunction, the court concluded that it did not, partly because of the TRO's short duration. *Id.*, slip op. at 7. The court therefore dismissed the appeal for lack of jurisdiction. *Id.* at 8.

The present case does not suffer from the jurisdictional defects that were present in *Pre-Term Cleveland* and *South Wind Women's Center*. Although the

State initially appealed the trial court's TRO, it voluntarily dismissed the appeal, perhaps to avoid these exact jurisdictional defects. Very shortly thereafter, the trial court entered a preliminary injunction in favor of the Plaintiffs, and this appeal followed. Thus, it would be a mistake for this Court to rely on *Pre-Term Cleveland* or *South Wind Women's Center*, because neither case addressed the merits of the appeal. Both were decided on jurisdictional grounds that are not present here.

C. The Fifth Circuit's Decisions: Mostly Applicable, but Partly Distinguishable

1. Overview of the *Abbott* Litigation

Unlike the appellants in *Pre-Term Cleveland* or *South Wind Women's Center*, the State of Texas had success in obtaining appellate relief under different circumstances. A federal district court in Texas blocked Texas from enforcing its COVID-19 order against abortion clinics. *Planned Parenthood Ctr. for Choice v. Abbott*, No. 1:20-cv-00323 (W.D. Tex. Mar. 30, 2020) ("*Abbott I*"). Texas petitioned the Fifth Circuit for a writ of mandamus directing the trial court to vacate its TRO. On April 7, the Fifth Circuit granted the writ. *In re Greg Abbott*, No. 20-50264 (5th Cir. Apr. 7, 2020) ("*Abbott II*").

Two days after the Fifth Circuit ordered the trial court to vacate its TRO, the trial court issued another TRO that blocked Texas from restricting three things: (1) medication abortions; (2) abortions for women who would be more than 18 weeks pregnant and unable to reach a surgical center; and (3) abortions for women who

would be past Texas's legal limit for abortions by April 22. *Planned Parenthood Ctr. for Choice v. Abbott*, No. 1:20-cv-00323 (W.D. Tex. Apr. 9, 2020) ("*Abbott III*").

The State again petitioned the Fifth Circuit for an emergency stay and a writ of mandamus directing the trial court to vacate its TRO. On April 9, the Fifth Circuit expressed grave concern that the trial court might not have followed its mandate from *Abbott II*, but it declined to issue the stay because, based on an ambiguous record, the State had failed to meet its burden on the medication-abortion issue. *In re Greg Abbott*, 5th Cir. No. 20-50296, slip op. at 4-5 (5th Cir. Apr. 9, 2020) ("*Abbott IV*"). The Fifth Circuit concluded by saying, "We express no ultimate decision on the ongoing mandamus proceeding or on the remaining aspects of the emergency stay motion." *Id.*, slip op. at 5.

On April 20, 2020, the Fifth Circuit granted the writ in part and denied it in part, directing the trial court to vacate most of its TRO. Specifically, the Fifth Circuit ordered the trial court to vacate the parts of its TRO that restrained the government from forbidding (1) medication abortions and (2) abortions for women who would be more than 18 weeks pregnant and unable to reach a surgical center. *In re Greg Abbott*, No. 20-50296, slip op. at 3 (5th Cir. Apr. 20, 2020) ("*Abbott V*"). The Fifth Circuit reasoned that the trial court failed to follow the mandate in *Abbott II*, which ordered the trial court to follow the Supreme Court's decision in

Jacobson v. Massachusetts, 197 U.S. 11 (1905). *Abbott V*, slip op. at 2. The Fifth Circuit also found that the trial court "second-guessed the basic mitigation strategy" behind Texas's executive order without knowing critical facts. *Id.* Consequently, the Fifth Circuit concluded that "[t]hose errors led the district court to enter an overbroad TRO that exceeds its jurisdiction, reaches patently erroneous results, and usurps the state's authority to craft emergency pubic health measures[.]" *Id.*

However, the Fifth Circuit declined to grant mandamus as to the part of the TRO that restrained the government from enforcing the order as to women who would be past the legal limit for abortion on April 22. *Id.* Unlike other parts of the district court's decision, the abortion providers had actually submitted *some* evidence to support their claim on this issue. *Id.*, slip op. at 36. While the Fifth Circuit harbored some doubts as to whether the evidence was correct, it held that the State had not met its burden as to that issue. *Id.* Because the state failed to meet its burden, the Fifth Circuit let that part of the TRO stand. *Id.*

2. Application to the Present Case

The Fifth Circuit's decisions in the *Abbott* cases are the most analogous decisions to the present case. Unlike the decisions of the Sixth and Tenth Circuits, which were decided on jurisdictional grounds, the Fifth Circuit actually reached the merits in *Abbott II* and *Abbott V*. The State has thoroughly discussed the

applicability of *Abbott II* in its brief, and *Amicus Curiae* will not burden the Court by repeating it here. As for *Abbott V*, the Fifth Circuit faulted the trail court for failing to follow *Jacobson*, which is exactly what the State is arguing in the present case. And like *Abbott V*, there is a high chance in this case that the trial court will be "second-guessing" the State's mitigation strategy. As the State discussed thoroughly in its brief, the trial court entered a preliminary injunction against the State on a suspicion of how it might act against abortion clinics, with no supporting relevant testimony from Dr. Robinson. Consequently, Scott Harris, the State health officer, will have to make emergency decisions with the threat of contempt hanging over his head with every move he makes. The trial court therefore placed itself in the role of "second guessing" the State's emergency decisions as to how to handle this crisis.

In addition, the issues that caused the adverse rulings against Texas in *Abbott IV* and *V* are not present in this case. In *Abbot V*, the Fifth Circuit held that the abortionists had presented some evidence to support the claim that the Fifth Circuit upheld. In contrast, Dr. Robinson presented no evidence that she was entitled to a preliminary injunction based on the State of Alabama's actions.

In *Abbot IV*, the Fifth Circuit held that Texas did not sufficiently address a critical part of a TRO. In this case, however, the State has appealed from the entry of a preliminary injunction; therefore the State does not have as high of a hurdle to

clear in order to obtain emergency relief. Both require "a strong showing that [the movant] is likely to succeed on the merits." *Niken v. Holder*, 556 U.S. 418, 426 (2009). Mandamus requires the petitioner to prove that he has (1) a clear legal right, (2) the defendant has a duty to act, and (3) the petitioner has no other adequate remedy. *Cash v. Barnhart*, 327 F.3d 1252, 1257-58 (11th Cir. 2003). It should be utilized only in the "clearest and most compelling of cases," and is available only if the petitioner "has exhausted all other avenues of relief and only if the defendant owes him a clear nondiscretionary duty." *Id.* Making a "strong showing" by that standard is harder than simply making a strong showing that the trial court likely abused its discretion, which is the standard in preliminary injunction appeals. *See Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1317 (11th Cir. 2019).

D. Conclusion: The Unfavorable Decisions in Other Circuits Should Not Discourage This Court from Ruling in the Appellants' Favor.

When a federal appellate court is faced with an issue of first impression, it is common for that court to examine the decisions of its sister circuits for guidance on how to proceed. If this Court decides to look at the adverse decisions of the Sixth and Tenth Circuits, then it should note that those cases are distinguishable. Likewise, if it looks at the unfavorable aspects of *Abbott IV* and *V*, then it should consider that those rulings are distinguishable as well.

Given the State's motion for expedited briefing of this appeal, *Amicus Curiae* respectfully requests this Court to not just take a quick look at the decisions of its sister circuits but rather to note the important distinctions between those cases and the present case. Not only is this case in a better procedural posture than the cases in which the courts ruled against the state, but it is in an even better procedural posture than the cases in which the courts rule for the state. If this Court draws on any of the precedents from its sister circuits, then it should draw on the favorable parts of *Abbott II* and *Abbot V* but ignore the others.

II. Creating an Exemption for Abortion from the State's COVID-19 Order Would Lead to Absurd Results

For the State, this case is not about abortion. It is about making sure that Dr. Harris has the ability to do his job in an emergency without a federal judge holding him in contempt. Right now, the State seeks to free Dr. Harris to do his job and wants the abortion clinics to have to play by the same rules as all other healthcare providers under Dr. Harris's order. Having examined *Planned Parenthood v. Casey*, 505 U.S. 833 (1992) in light of *Jacobson*, the State has concluded essentially that abortionists have to go along with the emergency orders just like everyone else does. As *Amicus Curiae*, however, the Foundation wishes to point out the absurd results that would follow by creating a special exception for abortionists.

Alabama's current stay-at-home order severely restricts rights that are clearly guaranteed in the Constitution of the United States. For instance, the First Amendment guarantees the right to "free exercise" of religion. U.S. Const. amend. I. However, under the current stay-at-home order, a person can attend a religious service only if: (1) the service has less than 10 people and everyone stays at least six feet apart, or (2) it is a "drive-in" service where everyone has to stay in their cars. *See Order of the State Health Officer Suspending Certain Public Gatherings Due to Risk of Infection by COVID-19*, Alabama Department of Public Health Rule 420-4-1-.13 ER, at 2-3 (Apr. 3, 2020).

Not only does this rule infringe on the rights of a church to assemble as it sees fit, but it also raises serious questions about how certain church functions could be carried out. Would these rules impede someone from getting baptized, since the act of baptism, whether by immersion or sprinkling involves at least two people getting within 6 feet of each other? What about the Lord's Supper, especially in churches that believe that Christ is in some way present in the elements and the sacraments needs to be administered by the clergy? What about churches that believe that their leaders should lay hands on the sick, anoint them with oil, and pray for them, so that they will become well? *See James* 5:14-15.

The State's justification for these restrictions, which under ordinary circumstances would be considered clear Free Exercise violations, is the Supreme

Court's decision in *Jacobson*. In that case, the Supreme Court held that judicial review of a state's emergency action can be held only if the law "purporting to have been enacted to protect the public health, the public morals, or the public safety, has no real or substantial relation to those objects, or is, beyond all question, a plain, palpable invasion of rights secured by the fundamental law." *Jacobson*, 197 U.S. at 31.

As an original matter, the Foundation questions whether this rule is constitutionally sound. Although the Foundation has no desire to strip the state of its police powers to act in a very real emergency, the Foundation questions whether constitutional rights can be so limited in an emergency situation. There is no "emergency clause" in the Constitution. There is the Supremacy Clause, however, which states that the Constitution is "the supreme Law of the Land.... anything in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. Const., art. VI, cl. 2. Consequently, if there was any conflict between a right that was actually in the Constitution versus a state's police power, then would not the Constitution curtail the state's police power rather than the other way around? It is not necessary to decide that matter in this case, but the Foundation merely observes that the Supreme Court's precedents governing the state's emergency powers pose a threat to real constitutional rights.

Given that the state's emergency order already threatens rights that are actually guaranteed by the Constitution, it would be egregious to carve an exception for a right that is not actually in the Constitution—the right to an abortion. As Justice Scalia said, "the Constitution contains no right to abortion. It is not to be found in the longstanding traditions of our society, nor can it be logically deduced from the text of the Constitution[.]" *Ohio v. Akron Ctr. for Reproductive Health*, 497 U.S. 502, 520 (1990) (Scalia, J., concurring). The judicially fabricated right to abortion has cost the lives of at least 60 million unborn children since 1973. *See Abortion Statistics*, National Right to Life Committee, https://nrlc.org/uploads/factsheets/FS01AbortionintheUS.pdf (last visited Apr. 21, 2020). Because of *Roe* and *Casey*'s shameless judicial activism and the massive loss of life that has followed, Justice Thomas has equated *Roe* with *Dred Scott* as one "of the Court's most notoriously incorrect decisions." *Timbs v. Indiana*, 139 S.Ct. 682, 692 (2019) (Thomas, J., concurring in judgment). It would undermine the rule of law even more then to extend the Supreme Court's abortion precedents to create an exception for abortion from a generally applicable emergency health order while rights that are actually in the Constitution get no such exception.[3] It would also be the greatest case of injustice to hold that while

[3] Religious liberty is a God-given unalienable right, the first and foremost of all rights protected by the Bill of Rights, and given special protection by the Alabama Religious Freedom Amendment. By contrast, the "right" to an abortion is nowhere

the State may suspend everyone's liberties as it tries to save lives, it may not suspend the liberty of an industry whose sole purpose is to take lives.

CONCLUSION

The nuances of this case distinguish it from the unfavorable decisions in this Court's sister circuits; therefore the Foundation requests that the Court give it a careful consideration on the merits it deserves instead of simply assuming that this case is like the others. In addition, stretching the Supreme Court's abortion precedents to create an exception for abortion clinics would undermine the rule of law and result in the very loss of life that the State is trying to prevent. The trial court's judgment should be reversed.

Respectfully submitted,

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April 22, 2020

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explicitly guaranteed in the Constitution and its level of protection has been substantially attenuated by the Supreme Court in *Planned Parenthood v. Casey,* 505 U.S. 833 (1992), and *Gonzales v. Carhart,* 550 U.S. 124 (2007).

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Fed. R. App. P. 29(a)(5) because, excluding the parts of the brief exempted by Fed. R. App. P. 32(f) and 11th Cir. Rule 32-4, this brief contains 3,906 words.

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Times New Roman font.

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CERTIFICATE OF SERVICE

I certify that on April 22, 2020, I caused the foregoing to be filed electronically via the Court's electronic filing system, which will serve it upon all counsel of record, including the following:

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