

**STATE OF SOUTH CAROLINA
RICHLAND COUNTY**

PLANNED PARENTHOOD SOUTH
ATLANTIC, on behalf of itself, its patients, and
its physicians and staff;

KATHERINE FARRIS, M.D., on behalf of
herself and her patients;

GREENVILLE WOMEN'S CLINIC, on behalf of
itself, its patients, and its physicians and staff; and,

TERRY L. BUFFKIN, M.D., on behalf of himself
and his patients,

Plaintiffs,

v.

STATE OF SOUTH CAROLINA;

ALAN WILSON, in his official capacity as
Attorney General of South Carolina;

EDWARD SIMMER, in his official capacity as
Director of the South Carolina Department of
Health and Environmental Control;

ANNE G. COOK, in her official capacity as
President of the South Carolina Board of Medical
Examiners;

STEPHEN I. SCHABEL, in his official capacity
as Vice President of the South Carolina Board of
Medical Examiners;

RONALD JANUCHOWSKI, in his official
capacity as Secretary of the South Carolina Board
of Medical Examiners;

GEORGE S. DILTS, in his official capacity as a
Member of the South Carolina Board of Medical
Examiners;

**IN THE COURT OF COMMON
PLEAS FOR THE FIFTH
JUDICIAL CIRCUIT**

C/A No.: 2023-CP-40-002745

**ORDER GRANTING
PRELIMINARY INJUNCTION**

RECEIVED

May 26 2023

S.C. SUPREME COURT

DION FRANGA, in his official capacity as a Member of the South Carolina Board of Medical Examiners;

RICHARD HOWELL, in his official capacity as a Member of the South Carolina Board of Medical Examiners;

ROBERT KOSCIUSKO, in his official capacity as a Member of the South Carolina Board of Medical Examiners;

THERESA MILLS-FLOYD, in her official capacity as a Member of the South Carolina Board of Medical Examiners;

JENNIFER R. ROOT, in her official capacity as a Member of the South Carolina Board of Medical Examiners;

CHRISTOPHER C. WRIGHT, in his official capacity as a Member of the South Carolina Board of Medical Examiners;

SAMUEL H. McNUTT, in his official capacity as Chairperson of the South Carolina Board of Nursing;

SALLIE BETH TODD, in her official capacity as Vice Chairperson of the South Carolina Board of Nursing;

TAMARA DAY, in her official capacity as Secretary of the South Carolina Board of Nursing;

JONELLA DAVIS, in her official capacity as a Member of the South Carolina Board of Nursing;

KELLI GARBER, in her official capacity as a Member of the South Carolina Board of Nursing;

LINDSEY K. MITCHAM, in her official capacity as a Member of the South Carolina Board of Nursing;

REBECCA MORRISON, in her official capacity as a Member of the South Carolina Board of Nursing;

KAY SWISHER, in her official capacity as a Member of the South Carolina Board of Nursing;

ROBERT J WOLFF, in his official capacity as a Member of the South Carolina Board of Nursing;

SCARLETT A. WILSON, in her official capacity as Solicitor for South Carolina's 9th Judicial Circuit;

BYRON E. GIPSON, in his official capacity as Solicitor for South Carolina's 5th Judicial Circuit; and

WILLIAM WALTER WILKINS III, in his official capacity as Solicitor for South Carolina's 13th Judicial Circuit,

Defendants,

and

THOMAS C. ALEXANDER, in his official capacity as President of the South Carolina Senate; and

G. MURRELL SMITH, JR., in his official capacity as Speaker of the South Carolina House of Representatives; and

HENRY MCMASTER, in his official capacity as Governor of the State of South Carolina.

Intervenors.

This matter came before this Court on May 26, 2023, upon the request of Plaintiffs Planned Parenthood South Atlantic, on behalf of itself, its patients, and its physicians and staff; Katherine

Farris, M.D., on behalf of herself and her patients; Greenville Women’s Clinic, on behalf of itself, its patients, and its physicians and staff; and Terry L. Buffkin, M.D., on behalf of himself and his patients (collectively, “Plaintiffs”), as set forth in their Complaint for Declaratory and Injunctive Relief and Emergency Motion for a Temporary Restraining Order, filed May 25, 2023.

The Motion seeks relief under Rule 65 of the South Carolina Rules of Civil Procedure. Specifically, Plaintiffs seek an order to enjoin Defendants the State of South Carolina, Alan Wilson, Edward Simmer, Anne G. Cook, Stephen I. Schabel, Ronald Januchowski, George S. Dilts, Dion Franga, Richard Howell, Robert Kosciusko, Theresa Mills-Floyd, Jennifer R. Root, Christopher C. Wright, Samuel H. McNutt, Sallie Beth Todd, Tamara Day, Jonella Davis, Kelli Garber, Lindsey K. Mitcham, Rebecca Morrison, Kay Swisher, Robert J Wolff, Scarlett A. Wilson, Byron E. Gipson, and William Walter Wilkins III, all in their official capacities and their agencies (collectively, “Defendants”) from enforcing South Carolina Senate Bill 474, 125th Gen. Assembly., Special Sess. (S.C. 2023) (herein after “S.B. 474” or the “Act”), which bans abortion after the detection of fetal cardiac activity, subject to exceptions..

At the hearing of this matter, the court granted the motions to intervene of Thomas C. Alexander, in his official capacity as President of the South Carolina Senate, G. Murrell Smith, Jr., in his official capacity as the Speaker of the South Carolina House of Representatives, and Henry McMaster, in his official capacity as Governor of the State of South Carolina. Counsel for all parties were given notice of the hearing.

Having considered Plaintiffs’ Complaint, motion, and memorandum and affidavits in support, and for good cause shown, the Court hereby **GRANTS** a preliminary injunction as follows:

FINDINGS AND CONCLUSIONS

1. Plaintiffs operate the only three abortion clinics in South Carolina.
2. On May 23, 2023, the South Carolina Legislature adopted the Act, which Governor Henry McMaster signed on May 25, 2023, immediately banning abortion after the detection of fetal or embryonic “cardiac activity” which is typically six weeks (S.B. 474, § 2 (adding S.C. Code Ann. §44-41-630(B) (the “Six-Week Ban”)) with only narrow exceptions.
3. Violations of the Act carry criminal and civil penalties, including professional license revocation.
4. Defendants are various state and local officials responsible for enforcing S.B. 474.
5. Many people do not know they are pregnant at the point at which the Act would ban abortion.
6. Absent an injunction, Plaintiffs and their patients seeking abortion care will be irreparably harmed. Specifically, if permitted to remain in effect, the Act will leave some South Carolinians without any access to legal abortion.
7. Should South Carolina health care professionals violate the law, the Act provides for penalties, including prison terms, criminal fines, and loss of their professional licenses.
8. The South Carolina Supreme Court held in *Planned Parenthood South Atlantic v. State*, 438 S.C. 188, 882 S.E.2d 770 (2023), *reh’g denied* (Feb. 8, 2023) that S.B. 1, banning abortion after approximately six weeks of pregnancy, violated the right to privacy. Plaintiffs contend that S.B. 474 violates the constitutional rights of South Carolinians. Accordingly, Plaintiffs have stated sufficient likelihood of success for the issuance of this injunction.
9. Plaintiffs do not have an adequate remedy at law, as no amount of money or other damages would compensate Plaintiffs and their patients for the harms caused by S.B. 474.

10. Plaintiffs and their physicians, staff, and patients face immediate, irreparable harm if the Act is not preliminarily enjoined in its entirety. Specifically, they face felony criminal penalties, professional licensure revocation, and civil liability for violations of S.B. 474.

11. A preliminary injunction should be issued.

12. The South Carolina Supreme Court should resolve the constitutional issues in this case as the Court has ruled that a nearly identical law violated the right to privacy.

13. The status quo should be preserved while the South Carolina Supreme Court resolves this case in as expeditious manner as possible.

Accordingly, this Court **GRANTS** the following relief:

a. Defendants and their agencies, officers, employees, servants, agents, appointees, or successors, and anyone acting in conjunction with Defendants, are hereby **ENJOINED AND RESTRAINED** from administering, preparing for, enforcing, or giving effect to S.B. 474 and any other South Carolina statute or regulation that could be understood to give effect to S.B. 474, including through any future enforcement actions based on abortions performed during the pendency of this preliminary injunction;

b. The Court also hereby **ORDERS** Defendant State of South Carolina to provide a copy of this Order to all state, city, county, and local prosecutors; and,

c. This Order is effective immediately upon entry.

AND IT IS SO ORDERED.

Clifton Newman
Presiding Judge

Columbia, South Carolina

May 26, 2023



Richland Common Pleas

Case Caption: Planned Parenthood South Atlantic , plaintiff, et al vs State Of South Carolina , defendant, et al
Case Number: 2023CP4002745
Type: Order/Temporary Injunction

So Ordered

s/ Clifton B. Newman, 2127