

IN THE MISSOURI CIRCUIT COURT
FOR THE NINETEENTH JUDICIAL CIRCUIT
COUNTY OF COLE

MARY DOE,)
)
Plaintiff,)

v.)

Case No.

JEREMIAH JAY NIXON,)
GOVERNOR OF THE STATE OF)
MISSOURI,)

Division:

Serve at:)
Office of the Governor)
Rm. 218, State Capitol Building)
Jefferson City, MO 65102)

and)

CHRIS KOSTER, ATTORNEY)
GENERAL OF THE STATE OF)
MISSOURI,)

Serve at:)
Missouri Attorney General's)
Office)
Supreme Court Building)
207 W. High St.)
P.O. Box 899)
Jefferson City, MO 65102)

Defendants)

**VERIFIED PETITION FOR TEMPORARY RESTRAINING ORDER,
PRELIMINARY INJUNCTION AND PERMANENT INJUNCTION**

Plaintiff Mary Doe, through counsel Ronald J. Eisenberg of Schultz & Associates

LLP, alleges as follows:

1. Plaintiff is an adult and competent woman residing in Missouri.

2. Mary Doe is not Plaintiff's real name; Plaintiff needs to keep her real name confidential because this action involves her most intimate personal beliefs and she will be subject to personal attack for bringing this action.

3. Defendant Jeremiah Jay Nixon is the Governor of the State of Missouri.

4. Defendant Chris Koster is the Attorney General of the State of Missouri.

5. Defendants and their agents and officers are responsible for the enforcement of Missouri state law including the Religious Freedom Restoration Act, Mo. Rev. Stat. §§ 1.302 et. seq. ("RFRA"), and the regulation of abortions set forth in Mo. Rev. Stat. §§ 188.015, et seq.

6. This court has jurisdiction under Missouri Revised Statutes § 478.070.

7. Venue is proper.

8. Plaintiff is pregnant with an "unborn child," as that term is used in Mo. Rev. Stat. § 188.015(9).

9. The "unborn child" carried by Plaintiff is not "viable," as that term is used in Mo. Rev. Stat. § 188.015(10) .

10. For purposes of this petition, an "unborn child" that is not "viable" is referred to as "Tissue."

11. Plaintiff has deeply held religious beliefs ("Tenets") that:

a. Her body is inviolable and subject to her will alone;

b. She makes decisions regarding her health based on the best scientific understanding of the world, even if the science does not comport with the religious or political beliefs of others;

c. Her inviolable body includes the Tissue;

d. She alone decides whether to remove the Tissue from her inviolable body; and

e. She may, in good conscience, have the Tissue removed from her inviolable body without regard to the current or future condition of the Tissue.

12. Plaintiff has, in the exercise of the Tenets, decided to immediately remove the Tissue from her body and without regard to its current or future condition (“Decision”).

13. Plaintiff is substantially motivated by the Tenets to implement the Decision.

14. Implementation of the Decision is the “exercise of religion,” as that term is used in Mo. Rev. Stat. § 1.302.2.

15. Implementation of the Decision is an “abortion,” as that term is used in Mo. Rev. Stat. § 188.015(1).

16. By operation of Mo. Rev. Stat. § 188.027(11), Plaintiff’s ability to make the Decision freely, voluntarily, without coercion and in an informed manner is a compelling state interest (“Plaintiff’s Freedom of Choice”).

17. Mo. Rev. Stat. § 188.027.1(g)(2) requires that prior to implementing her Decision, Plaintiff be presented with printed materials that expressly state, “Abortion will terminate the life of a separate, unique, living human being.”

18. Plaintiff does not believe, as a matter of her deeply held religious beliefs, that the Tissue is a “life of a separate, unique, living human being,” because the best scientific understanding of the world does not support that proposition.

19. Plaintiff does not believe, as a matter of her deeply held religious beliefs, that removing the Tissue from her body terminates “the life of a separate, unique, living human being,” because one of her Tenets is her inviolable body includes the Tissue.

20. Any attempt by the State of Missouri to condition Plaintiff’s implementation of her Decision upon the presentation to her of the proposition that the Tissue is “the life of a separate, unique, living human being” is a restriction on Plaintiff’s free exercise of religion in violation of RFRA because:

- a. It is contrary to her Tenets; and
- b. It is not essential to Plaintiff’s Freedom of Choice; and/or
- c. It is unduly restrictive on Plaintiff’s Freedom and Choice considering the relevant circumstances.

21. Mo. Rev. Stat. § 188.027.1(g)(2) requires that prior to implementing her Decision, Plaintiff be given printed materials prepared by the Missouri Department of Health and Senior Services (“Department”) that

describe the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from conception to full term, including color photographs or images of the developing unborn child at two-week gestational increments. Such descriptions shall include information about brain and heart functions, the presence of external members and internal organs during the applicable stages of development and information on when the unborn child is viable.

22. Mo. Rev. Stat. § 188.027.1(g)(5) requires that prior to implementing her Decision, Plaintiff be presented with printed materials prepared by the Department that “offer information on the possibility of the abortion causing pain to the unborn child.”

23. The information described in Mo. Rev. Stat. § 188.027.1(g)(2) and (5) are printed and distributed by the Department in a booklet, a copy of which is attached as **Exhibit A** (“Booklet”).

24. Plaintiff does not believe, as a matter of her deeply held religious beliefs, that the information contained in the Booklet is relevant to implementing her Decision because one of her Tenets is she may remove the Tissue from her body without regard to its current or future condition, including, but without limitation, the condition of its brain, heart, external members, internal organs, ability to feel pain or date of viability.

25. Any attempt by the State of Missouri to condition Plaintiff’s implementation of her Decision upon the presentation to her of the Booklet and the information it contains is a restriction on Plaintiff’s free exercise of religion in violation of RFRA because:

- a. It is contrary to her Tenets; and
- b. It is not essential to Plaintiff’s Freedom and Choice; and/or
- c. It is unduly restrictive of Plaintiff’s Freedom and Choice considering the relevant circumstances.

26. Mo. Rev. Stat. § 188.027.3 requires that, prior to implementing Plaintiff’s Decision, “[t]he physician who is to perform or induce the abortion or a qualified professional shall provide [Plaintiff] with the opportunity to view at least seventy-two hours prior to the abortion an active ultrasound of the unborn child and hear the heartbeat of the unborn child if the heartbeat is audible.”

27. Plaintiff does not believe, as a matter of her deeply held religious beliefs, that viewing an ultrasound of the Tissue for any reason is relevant to implementing her

Decision, because one of her Tenets is she may remove the Tissue from her body without regard to its current or future condition, including, without limitation, its heartbeat.

28. Any attempt by the State of Missouri to condition Plaintiff's implementation of her Decision upon waiting seventy-two hours after being given the opportunity to view an ultrasound of the Tissue is a restriction on Plaintiff's free exercise of religion, in violation of RFRA, because:

- a. It is contrary to her Tenets; and
- b. It is not essential to Plaintiff's Freedom and Choice; and/or
- c. It is unduly restrictive of Plaintiff's Freedom and Choice considering the relevant circumstances.

29. Mo. Rev. Stat. § 188.027.12 provides that if "the provisions in subsections 1 and 8 of this section requiring a seventy-two-hour waiting period for an abortion are ever temporarily or permanently restrained or enjoined by judicial order, then the waiting period for an abortion shall be twenty-four hours."

30. Any attempt by the State of Missouri to condition Plaintiff's implementation of her Decision upon waiting twenty-four hours after being given the opportunity to view an ultrasound of the Tissue is a restriction on Plaintiff's free exercise of religion in violation of RFRA because:

- a. It is contrary to her Tenets; and
- b. It is not essential to Plaintiff's Freedom and Choice; and/or
- c. It is unduly restrictive of Plaintiff's Freedom and Choice considering the relevant circumstances.

31. On May 8, 2015, Plaintiff went to the offices of Planned Parenthood of the St. Louis Region and Southwest Missouri (“Planned Parenthood”), in St. Louis City, Missouri, and asked that Planned Parenthood provide the medical services necessary to immediately implement her Decision.

32. On May 8, 2015, Plaintiff delivered a letter to Planned Parenthood, an unsigned but otherwise identical copy of which is attached as **Exhibit B**.

33. Planned Parenthood refused to provide Plaintiff with the medical services necessary to implement her Decision unless and until:

- a. Plaintiff acknowledged in writing that she had received the Booklet; and
- b. Plaintiff waited seventy-two hours after being offered the opportunity to view an ultrasound of the Tissue.

34. Planned Parenthood was compelled by operation of Mo. Rev. Stat. §§ 188.027.1(g)(2) and (5) and 188.027.3 to deny Plaintiff the ability to implement her Decision on May 8, 2015.

35. The statutorily compelled denial of Plaintiff’s implementation of her Decision on May 8, 2015, is a restriction on Plaintiff’s free exercise of religion in violation of RFRA because:

- a. It is contrary to her Tenets; and
- b. It is not essential to Plaintiff’s Freedom and Choice; and/or
- c. It is unduly restrictive of Plaintiff’s Freedom and Choice considering the relevant circumstances.

36. Plaintiff has been irreparably injured by the restriction on the free exercise of her beliefs in the Tenets by the operation and application of Mo. Rev. Stat. §§ 188.027.1(g)(2) and (5) and 188.027.3.

WHEREFORE, Plaintiff respectfully requests the entry of an order that:

A. Enjoins Defendants, their officers and agents from enforcing Mo. Rev. Stat. §§ 188.027.1(g)(2) and (5) and 188.027.3 against her or any person who provides her an abortion, including without limitation Planned Parenthood;

B. Declares the waiting periods in Sections 188.027.3 and 188.027.12 are null and void;

C. Declares Plaintiff may obtain an abortion without complying with Mo. Rev. Stat. §§ 188.027.1(g)(2) and (5) and 188.027.3;

D. Declares that any person lawfully authorized to provide abortions in Missouri, including without limitation Planned Parenthood, may provide Plaintiff with an abortion without complying with Mo. Rev. Stat. §§ 188.027.1(g)(2) and (5) and 188.027.3;

E. Grants Plaintiff reasonable attorney fees and costs; and

F. Grants Plaintiff any additional relief deemed just and proper under the circumstances.

VERIFICATION

STATE OF MISSOURI)
) ss.
COUNTY OF ST. LOUIS)

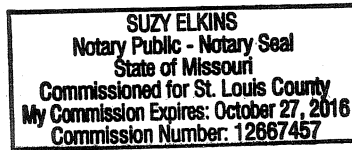
I, Mary Doe, being of lawful age and after being duly sworn upon my oath, depose and state that I am the Plaintiff in this case, have read the above pleading, and that the facts and matters stated therein are true and correct according to my best knowledge, information, and belief.

May 8, 2015

Mary Doe

Suzy Elkins
Notary

My Commission expires:



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