

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

REGINA RENE DINWIDDIE,  
1031 N.E. 88th Street,  
Kansas City, MO 64155,

Defendant.

No. \_\_\_\_\_

COMPLAINT

The United States of America, Plaintiff, by and through its undersigned attorneys, bring this action to enjoin Defendant, Regina Rene Dinwiddie ("Dinwiddie") from violating 18 U.S.C. §248, the Freedom of Access to Clinic Entrances Act of 1994 ("FACE").

JURISDICTION, STANDING, AND VENUE

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1345.
2. The United States has standing to maintain this action pursuant to 18 U.S.C. §248(c)(2).
3. Venue is proper in this Court pursuant to 28 U.S.C. §1391. All claims set forth in the Complaint arose in this district.

DEFENDANT

4. Defendant is an individual within the jurisdiction of this Court who has engaged in conduct prohibited by FACE, at and around the premises of Planned Parenthood of Greater Kansas City, 1001 East 47th Street, Kansas City, Missouri, at various other locations, and on national television programs.

## FACTS

5. Planned Parenthood of Greater Kansas City operates facilities at several locations in Kansas City, Missouri, including an administration and medical facility at 1001 East 47th Street, Kansas City, Missouri ("the Planned Parenthood Clinic"). The Planned Parenthood Clinic provides reproductive health services relating to pregnancy and the legal termination of pregnancies.

6. Individuals visit the Planned Parenthood Clinic to obtain medical, surgical, counselling, and referral services relating to the human reproductive system, including pregnancy and the legal termination of pregnancies.

7. Between January 28, 1994, and December 31, 1994, Dinwiddie did, by force and threat of force, intentionally seek to intimidate and interfere with persons providing and obtaining reproductive health services at the Planned Parenthood Clinic, for the reason that those persons were providing or receiving such services. Dinwiddie threatened the use of force by herself and others, and she encouraged and excited others to the use of force against those providing and obtaining abortions. Dinwiddie's actions occurred on the premises and near the Planned Parenthood Clinic, as well as in various other locations and on national and local television programs.

## VIOLATIONS

8. The actions alleged in Paragraph 7 violate 18 U.S.C. §248 and cause injury to persons attempting to provide or obtain the legal reproductive health services offered at the Planned

Parenthood Clinic.

9. Unless permanently enjoined by this Court, Dinwiddie will continue to engage in the unlawful conduct and practices set forth in Paragraph 7, deprive persons seeking to obtain or provide reproductive health services of their legal rights, and cause those persons irreparable harm.

PRAYER FOR RELIEF

10. The Attorney General is authorized under 18 U.S.C. §248(c)(2)(B) to seek equitable relief and compensatory damages for persons aggrieved under FACE.

WHEREFORE, the United States prays that:

(1) Dinwiddie be permanently enjoined from continuing the acts described in Paragraph 7, including but not limited to the use of force, threats of the use of force by herself or others, and encouraging, inciting, or eliciting the use of force by others for the purpose of intimidating or interfering with the provision or obtaining of reproductive health services, including legal abortion;

(2) Dinwiddie be required to pay compensatory damages to those harmed by the acts described in Paragraph 7;

(3) Dinwiddie be assessed civil penalties to the full extent allowed under FACE; and

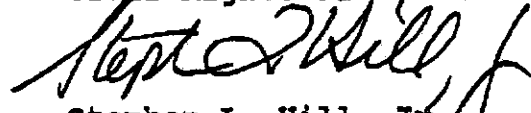
(4) the Court grant such other and further relief as is just and proper.


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Respectfully submitted,

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UNITED STATES OF AMERICA,  
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APPLICATION FOR TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION, WITH SUPPORTING SUGGESTIONS

Plaintiff, the United States of America, by its undersigned attorneys, moves the Court for a temporary restraining order and a preliminary injunction, pursuant to Rule 65, Federal Rules of Civil Procedure, and 18 U.S.C. §248, the Freedom of Access to Clinic Entrances Act of 1994 ("FACE"). The United States seeks an order to prevent Defendant, Regina Rene Dinwiddie ("Dinwiddie"), from using force, threatening the use of force by herself or others, or encouraging, inciting, or eliciting the use of force to interfere with or intimidate those providing or obtaining reproductive health services at Planned Parenthood of Greater Kansas City, 1001 East 47th Street, Kansas City, Missouri ("the Planned Parenthood Clinic"). In support of its motion, the United States submits the following suggestions.

**A. MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE CONTROVERSY.**

1. The Planned Parenthood Clinic offers various reproductive health services, including abortion services. Like other such health care facilities, the Planned Parenthood Clinic has been

targeted by anti-abortion protesters. Although many such demonstrations have been lawful and peaceful, some protesters have used campaigns of violence and obstruction aimed at closing the facility or physically blocking ingress to it and at intimidating those who seek to obtain or provide abortion services.

2. The methods used by anti-abortion protesters at various clinics have included blockades of facility entrances, vandalism, destruction of property, threats of bodily harm to health care providers and their families, threats of violence, and acts of violence resulting in injury or death.

3. As a result of protesters' resort to violence and acts of intimidation, Congress enacted FACE. The purpose of the statute is to see that facilities providing legal reproductive health care services remain open and available, and that those people seeking to obtain and provide the services provided by such facilities can do so without interference with their legal rights.

4. Over the past year, Defendant Dinwiddie has engaged in an escalating practice of threats and physical acts intended to intimidate and interfere with employees and agents of the Planned Parenthood Clinic in their provision of legal health care services. These activities include confrontations inside and outside of the premises, as witnesses and victims will testify. During those confrontations, Dinwiddie has threatened Declarants with physical harm because they are providing reproductive health services, including abortions.

## B. ARGUMENT

The United States has filed its Complaint in this case to obtain various civil remedies under FACE. Dinwiddie's activities at the Planned Parenthood Clinic are subject to temporary and preliminary injunctive relief in order to prevent the likelihood of irreparable harm and injury to people or property.

The test for consideration of applications for temporary restraining orders and preliminary injunctions in this federal judicial circuit is found in Dataphase Systems, Inc. v. C.L. Systems, Inc., 640 F.2d 109 (1981). The Eighth Circuit has adopted a four part test designed to balance the interests of the parties and maintain the status quo while the Court considers the merits of Plaintiff's action.

This Court must consider (1) the likelihood of success on the merits; (2) the likelihood of irreparable harm if the injunction is not issued; (3) whether the threatened injury outweighs any likely harm to Dinwiddie if temporary and preliminary relief is granted; and (4) whether the injunction will be in the public interest. The Eighth Circuit has held that none of the four elements of the test is superior to the others. Each element must be considered equally with the other elements. The objective is to balance the equities. Relief under Rule 65 is appropriate when the balance favors the applicant sufficiently that justice requires the Court to intervene and preserve the status quo until the merits can be determined. Dataphase, 640 F.2d at 113.

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A. LIKELIHOOD OF SUCCESS ON THE MERITS.

It is not necessary to show that success is certain. The applicant need only show that success is likely. In the Eighth Circuit, that test is one of "substantial probability." Dataphase, 640 F.2d at 112. A preliminary injunction should enter wherever there is either (1) probable success on the merits and possible irreparable harm, or (2) sufficiently serious questions on the merits to make them a fair ground for litigation, plus a balance of the hardships which tips in favor of the applicant. Id.

In this action, the United States is likely to prevail on the merits. The United States has substantial evidence to show that Dinwiddie has committed actions prohibited by FACE. She has been observed on television in repeated, vehement threats of violence to abortion providers. Victims of her attempts to intimate health care providers and interfere with their provision of legal abortion services will testify as to her actions and their interpretation of her actions as a serious expression of her intention to do bodily harm to them because they provide legal abortions.

The Supreme Court has acknowledged the validity of such injunctions as are sought by the United States in this case. In Madsen v. Women's Health Center, Inc., \_\_ U.S. \_\_, 112 S.Ct. 2516 (1994), the Court recognized the importance of ensuring a woman's right to obtain a legal abortion, the need for public safety and order, the promotion of free public traffic flow, and the



protection of medical privacy. See also, Planned Parenthood of Southeastern Pennsylvania v. Casey, \_\_\_U.S.\_\_\_\_, 112 S.Ct. 279 (1992); Roe v. Wade, 410 U.S. 113 (1973).

B. THE LIKELIHOOD OF IRREPARABLE HARM.

If the Court fails to issue preliminary relief that restrains and enjoins Dinwiddie from her illegal activities, persons obtaining or providing reproductive health services at the Planned Parenthood Clinic will be irreparably harmed. Dinwiddie is unlawfully interfering with those who provide health services and those who seek to obtain them. If she succeeds in obtaining the results she seeks--frightening providers into ceasing provision of services--she will delay or prevent women from obtaining vital health care, including testing, screening, and timely abortion. These women will also suffer increased medical risks. Their health and well being will be compromised.

In enacting FACE, Congress specifically recognized that intimidation, threats of force, and physical confrontation cause harm to patients. Courts also recognize the serious health affects imposed on patients by those who would terrorize health care providers. See, e.g., Pro-Choice Network v. Project Rescue, 799 F. Supp. 1417, 1427 (W.D.N.Y. 1992) (elevated blood pressure, hyperventilation, anxiety attacks, delays in performing necessary procedures). Women have the constitutionally protected, fundamental right to seek those medical services which are legal. Dinwiddie's actions interfere with the those rights. See Planned Parenthood of Southeastern Pennsylvania v. Casey, supra;

Thornburgh v. American College of Obstetricians and Gynecologists, 476 U.S. 747, 772 (1986); Roe v. Wade, *supra*.

The testimony of witnesses will show that, unless she is restrained by court order, Dinwiddie's conduct is likely to result in serious injury or harm to Clinic providers and patients. In addition, such actions interfere with the flow of interstate commerce. Kansas City is a border city, and those seeking the services of the Planned Parenthood Clinic are likely to come from another state for those services.

The harm suffered by those who are physically and emotionally damaged by interference with their access to or provision of legal medical services cannot be recompensed with money. It is irreparable and sufficient to meet the Dataphase test.

C. LIKELIHOOD OF HARM TO DINWIDDIE.

If she is enjoined from illegal activity, no harm will be done to Dinwiddie. An injunction will not interfere with her right to speak her protected views at will. It will not impermissibly lessen her right or ability to persuade others to her protected views. She will be able to continue to engage in expressive activities that are constitutionally protected, such as peaceful picketing, handing out literature, praying in public, making speeches, and soliciting support from others. The requested relief goes only to one area of activity: prohibited acts of physical intimidation and coercion and threats or acts of force or violence to persons or property. See, e.g., Wisconsin v. Mitchell, \_\_\_ U.S. \_\_\_, 113 S. Ct. 2194 (1993); Cox v. Louisiana, 379 U.S. 536 (1965).

In light of the limited relief sought, Dinwiddie cannot show that she has a protected interest which will be impacted. She has no right under any statute or the Constitution to threaten force or physical violence in order to prevent provision of legal health services.

D. THE PUBLIC INTEREST

Entry of relief under Rule 65 will promote the public interest. Congress enacted FACE to promote the public health and safety by prohibiting violence and the threats of violence to those providing or obtaining reproductive health care, including abortions. Congress authorized the Attorney General to commence civil actions in federal district courts, where she has reasonable cause to believe that a person or group of persons may be injured by conduct prohibited by FACE.

The public has no interest in permitting Dinwiddie to threaten violence, and in doing so, to incite others to violence while the Court deliberates on the merits of Plaintiff's underlying case. Dinwiddie's behavior and her threats have degenerated over recent months. Any reasonable person would believe those threats and actions are serious expressions of Dinwiddie's intention to do harm, or cause others to do harm, to those who provide abortions. A temporary restraining order and a preliminary injunction are prudent and appropriate to protect the safety of specific individuals and the interests of public security, under the circumstances.


WHEREFORE, Plaintiff requests the issuance of a temporary restraining order, the setting of a hearing for issuance of a preliminary injunction, and the subsequent issuance of a preliminary injunction. Both the restraining order and the injunction should prohibit Dinwiddie from, by words or actions, attempting to intimidate or interfere with the provision or obtaining of reproductive health services at the Planned Parenthood Clinic. Plaintiff requests that the restraining order and injunction preclude Dinwiddie from such words or actions either at the location of the Clinic or at any other location, and that it preclude her from encouraging, exciting, or eliciting the use of violence by others in violation of FACE.

Respectfully submitted,

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