

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

ALLIANCE FOR HIPPOCRATIC MEDICINE,
et al.,

CASE NO. 2:22-cv-00223-z

Plaintiffs,

v.

U.S. FOOD AND DRUG ADMINISTRATION,
et al.,

Defendants.

**AMICUS CURIAE BRIEF OF THE AMERICAN CENTER
FOR LAW AND JUSTICE IN SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

Jay Alan Sekulow [REDACTED] *
Jordan Sekulow [REDACTED] *
Stuart J. Roth [REDACTED] *
Christina A. Compagnone [REDACTED] *
Walter M. Weber [REDACTED] *
Olivia F. Summers [REDACTED] *
American Center for Law & Justice
[REDACTED]

Edward L. White
[REDACTED]
American Center for Law & Justice

*Counsel for the American Center
for Law & Justice*

* not admitted in this jurisdiction

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INTEREST OF AMICUS

The American Center for Law and Justice (ACLJ) is an organization dedicated to the defense of constitutional liberties secured by law, including the defense of the sanctity of human life. The ACLJ has submitted amicus briefs, *inter alia*, in a variety of abortion-related cases. The ACLJ offers the present brief to add perspective on the consequences of relaxing the availability of abortion medications. In particular, this brief details the ways in which abortion in general, and abortion pills in particular, facilitate, not women’s empowerment, but the exploitation of women by third parties for their own selfish interests.

INTRODUCTION

This case is about the FDA’s approval of, and subsequent loosening of regulations surrounding, abortion drugs. A key premise of such approval and relaxing of restrictions is the assertion that availability of abortion drugs is somehow beneficial to women. The recurrent assumption is that women want and need abortion and that ready access to abortion, including with abortion drugs, is therefore a “pro-woman” position. Such a view, however, completely disregards the reality that all too often abortion is a means of *exploitation* of women – typically by men or others wielding power over those women. The ACLJ addresses this oft neglected side of the equation herein.

ARGUMENT

ABORTION, RATHER THAN AN ACT OF FEMALE AUTONOMY, IS TOO OFTEN A HANDY TOOL FOR THOSE PURSUING NEFARIOUS PURPOSES AT THE EXPENSE OF WOMEN.

Contrary to the clichéd pro-abortion argument that abortion is a *choice* made by women that brings freedom, many women, if not an overwhelming majority of women, “choose” abortion because they are pressured – or coerced – by others. Often, that pressure to have an abortion comes from those who prioritize their own self-interest above the best interests and wishes of the pregnant

woman: “once abortion becomes available, it becomes the most attractive option for everyone around the pregnant woman.” Frederica Mathewes-Green, *When Abortion Suddenly Stopped Making Sense*, Nat’l Rev. (Jan. 22, 2016) (emphasis in original). Moreover, abortion can serve as a tool for furthering broader eugenic and racist goals. *Jackson Women’s Health Org. v. Dobbs*, 945 F.3d 265, 284-85 (5th Cir. 2019) (Ho, J., concurring in judgment), *rev’d on other grounds*, *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228 (2022); *Box v. Planned Parenthood of Ind. & Ky., Inc.*, 139 S. Ct. 1780, 1782-93 (2019) (Thomas, J., concurring).

In a study that compared the experiences of Russian and American women with abortion, 64% of the American women surveyed reported feeling pressured by others to obtain an abortion. Vincent M. Rue, et al., *Induced Abortion and Traumatic Stress: a Preliminary Comparison of American and Russian Women*, 10 Med. Sci. Monitor 9 (2004).¹ Another study, published in the *Journal of American Physicians and Surgeons*, similarly found that nearly 74% of the post-abortive women surveyed admitted “that their decision to abort was [not] entirely free from even subtle pressure from others to abort,” over 58% “reported aborting to make others happy,” and 28.4% of the women specifically chose abortion “out of fear of losing their partner if they did not abort.” Priscilla K. Coleman, Ph.D., *Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experiences*, 22 J. Amer. Physicians & Surgeons 113, 115 (2017).² 66% of the women reported “know[ing] in their hearts that they were making a mistake when they

¹ Study participants were “[w]omen who had experienced a pregnancy loss (spontaneous abortion, induced abortion, stillbirth, or adoption) [who] were asked to participate in a study of women’s reactions to a pregnancy loss. Data were collected in 1994 at U.S. and Russian healthcare facilities (public and private hospitals, and health care clinics). . . . The sample in [this] study includes only those women who had one or more induced abortion and no miscarriages, stillbirths, or adoptions” *Id.*

² The women who responded to this survey were women who voluntarily contacted crisis pregnancy centers for post-abortion care.

underwent the abortion.” *Id.* Even the abortion-sympathetic Guttmacher Institute reports that 12% of women seeking abortions gave as a “specified reason[]” for their abortion that a “[h]usband or partner wants me to have the abortion.” Lawrence B. Finer et al., *Reasons U.S. Women Have Abortions: Quantitative and Qualitative Perspectives*, 37 *Persps. on Sexual & Reprod. Health* 110, 113 (2005) (Table 2). These statistics reveal that a substantial number of women in America who supposedly “choose” abortion, rather than being empowered to make a “choice,” are actually being pressured by others into abortions they may not want. As one former abortion supporter observed, “No one wants an abortion as she wants an ice cream cone or a Porsche. She wants an abortion as an animal, caught in a trap, wants to gnaw off its own leg.” Mathewes-Green, *supra* p. 2 (internal quotation marks omitted).

This becomes even clearer when examining specific types of coercion to abort.

Abortion and Human Trafficking

Human trafficking “is a widespread and highly profitable crime that generates an estimated \$150 billion worldwide per year. . .,” 2021 Trafficking in Persons Report, U.S. Dep’t of State (July 26, 2021 3:00 PM), <https://www.state.gov/reports/2021-trafficking-in-persons-report/>, with two-thirds of that \$150 billion stemming from commercial sexual exploitation, or sex trafficking, *ILO Says Forced Labour Generates Annual Profits of US \$ 150 Billion*, Int’l Lab. Org. (May 20, 2014), <https://tinyurl.com/yn9wwdsx>. The National Human Trafficking Hotline’s most recent statistics from 2021 show 10,360 unique *reported* cases of human trafficking in the United States alone. Hotline Statistics, Nat’l Hum. Trafficking Hotline Data Rep. 4, <https://tinyurl.com/ys4w6xpw> (last visited Jan. 16, 2023).³ Of those 10,000+ cases, 7,499 of them were sex trafficking cases and

³ As noted in the 2019 Data Report, the “[t]rafficking situations learned about through the Trafficking Hotline likely represent only a small subset of actual trafficking occurring in the United States. Therefore, this data must not be confused with the prevalence of human trafficking
(Footnote continues.)

another 400 cases were sex and labor related, meaning over 76% of all reported human trafficking cases in the United States in 2021 involved some sort of sexual exploitation. *Id.* at 5-6.

According to a 2005 report funded by the Department of Justice, “[h]uman traffickers are engaged in a wide range of crimes both against their victims (rape, assault, extortion, homicide, forced abortions, etc.) and against the state. . . .” Kevin Bales & Steven Lize, *Trafficking in Persons in the United States: A Report to the National Institute of Justice*, 6 (2005), <https://tinyurl.com/3ah32n3z>. Another study found “[t]he prevalence of forced abortions is an especially disturbing trend in sex trafficking.” Laura J. Lederer & Christopher A. Wetzel, *The Health Consequences of Sex Trafficking and Their Implications for Identifying Victims in Healthcare Facilities*, 23 *Annals Health L.* 61, 73 (2014), <https://tinyurl.com/3hvjednk>. The survivors of sex trafficking studied “reported that they often did not freely choose the abortions they had while being trafficked.” *Id.* at 73.

One victim noted that “in most of [my six abortions,] I was under serious pressure from my pimps to abort the babies.” Another survivor, whose abuse at the hands of her traffickers was particularly brutal, reported seventeen abortions and indicated that at least some of them were forced on her.

Id. at 73-74. Forced abortions in the context of sex trafficking, whether by subtle or more forceful pressure, cannot in any way be viewed as a liberating “choice” for women. Yet, the abortion industry does little if anything to combat forced abortion at the hands of sex traffickers.

In 2017, a former Planned Parenthood employee stated that Planned Parenthood did not “train[] employees how to spot and report sex trafficking – but [instead] how not to get caught saying incriminating things to undercover journalists.” Bradford Richardson, *Planned Parenthood Failed to Take Sex Trafficking Seriously After Infamous Sting, Ex-Employee Says*, *Wash. Times*

in the United States.” Nat’l Hum. Trafficking Hotline 2 <https://tinyurl.com/2nwe7dfj> (last visited Jan. 24, 2023) (see “About this Data” box).

(Jan. 17, 2017), <https://tinyurl.com/yec5dcnw>. This training was in response to “Live Action’s 2011 investigation [which] caught on camera eight Planned Parenthood workers at seven facilities who were willing to help a man who identified himself as a sex trafficker covertly obtain abortions and other reproductive health care services for minors as young as 14.” *Id.* Of course, if abortion providers will give a pass to someone who openly admits to trafficking, they are still more likely to “serve” pimps and traffickers who pretend to be the woman’s boyfriend or relative. And relevant here, remotely authorizing abortion pill distribution makes it that much easier for the pimp to hide behind the computer screen.

Abortion and Sexual Predators

Abortion supplies a handy means for sexual predators to conceal obvious evidence – pregnancy and childbirth – of their exploitation. *See, e.g., United States v. Raniere*, 2019 U.S. Dist. LEXIS 84634 (E.D. N.Y. May 3, 2019) (abortions for women impregnated by leader of apparent cult); Tonya Alanez, *58 porno videos of 15-year-old girl lead to Davie man’s arrest*, S. Fla. Sun Sentinel (Oct. 23, 2019) (“The victim stated that she got pregnant from the defendant and he took her to the clinic to have an abortion”); Carole Novielli, *Man Took 14-Year-Old For Three Abortions After Impregnating Her, Clinics Ignored the Rapes*, Life News (July 30, 2014); David McFadden, *Probation revoked for man in impregnating 11-year-old, forcing to get abortion*, ABC13 News (July 19, 2018); *Settlement reached in suit over teen abortion*, The Columbus Dispatch (Apr. 28, 2011) (soccer coach impregnated 14-year-old, then pretended to be her father in consenting to the abortion). Again, remote dispensing makes such exploitation even easier.

Abortion and Domestic Abuse

Abortion is an act of violence that takes the life of a prenatal child. Often, the woman getting an abortion is also a victim of violence – which greatly influences the woman’s “choice.” One study revealed that among women who chose abortion, “the probability of being a victim of [intimate partner violence] in the past year . . . was almost three times higher than for women [who chose to continue their pregnancy].” Dominique Bourassa, MD, & Jocelyn Bérubé, MD, *The Prevalence of Intimate Partner Violence Among Women and Teenagers Seeking Abortion Compared with Those Continuing Pregnancy*, 29 J. Obstetrics Gynaecology Can. 415, 415 (2007).

According to abortion advocates, a woman should be able to obtain an abortion on the theory that acceding to the abuser’s desires will reduce future abuse. The truth, however, is that abortion even as appeasement does not free a woman from abuse.

A survey of 1127 women undergoing a second or subsequent abortion found that they were more likely to have experienced abuse by a male partner, sexual abuse or coercion. Of women presenting for a first abortion, 24% reported a major conflict and fights with the man involved in the pregnancy; 30% of women having a second abortion reported relationship violence; and women having a third or subsequent abortion were >2.5 times as likely to report a history of physical or sexual abuse by a male partner.

Gillian Aston & Susan Bewley, *Abortion and Domestic Violence*, 11 The Obstetrician & Gynaecologist 163, 165 (2009). Consider as well the following examples:

- Eryn Taylor, *Police: Man Beats Girlfriend After She Refuses to Have an Abortion*, News Channel 3 (Sep. 5, 2016), <https://tinyurl.com/2xr64yju> (man beat his girlfriend because she refused to get an abortion; he “told the woman she needed to get rid of her baby,” and when she refused, the man “allegedly began hitting her with his fist and began choking her. The victim frantically tried to get out of the car, but [he] pulled her back in. He then parked the car, pulled the victim out and reportedly began kicking her in the head creating a large gash to her head”).

- Joe Nelson, *Charge: Pregnant Woman Beaten by Duo After Refusing to Have an Abortion*, Bring Me The News: Minn. News (May 1 2021), <https://tinyurl.com/4narfjnz> (woman, six months pregnant, was beaten by two men who “specifically targeted her abdomen”; woman stated that the father “consistently pressured her to have an abortion and threatened to get people to jump her and cause her to lose the baby. She told police that [he] once told her, ‘I’m gonna get somebody to stomp that baby out of you.’”)
- *Ohio man Dominic Holt-Reid sentenced to 13 years for attempted forced abortion*, CBSNews.com (June 10, 2011) <https://www.cbsnews.com/news/ohio-man-dominic-holt-reid-sentenced-to-13-years-for-attempted-forced-abortion/> (man took his pregnant girlfriend to abortion clinic at gunpoint; prosecutor said man grabbed Burgess by the neck and began strangling her while saying, “We are not having this baby, Yolanda”)

Countless further instances could be added. *See, e.g.*, Micaiah Bilger, *When She Refused Abortion, Her Boyfriend Threatened to Kill Their Unborn Baby With a Coat Hanger*, LifeNews (Mar. 14, 2022) (listing, after article, numerous other instances, with links). The abortion, rather than freeing the woman, only adds to the list of emotional and physical traumas she has suffered.

Relevant to this case, it bears mention that it is much *easier for an abuser to force a woman to ingest abortion pills* than to drag her to a facility for a surgical abortion. *E.g.*, Nancy Dillon, *California man accused of forcing pregnant girlfriend to take miscarriage pills at gunpoint*, N.Y. Daily News (Dec. 12, 2019); AP, *Doctor Who Spiked Girlfriend’s Drink with Abortion Drug Sentenced to 3 years in Jail*, News18 (May 21, 2018); AP, *Police: NY man forced woman to swallow abortion pill*, Fox News (Jan. 8, 2015).

Abortion and Male Irresponsibility

Of course, abortion provides an escape hatch as well for irresponsible men who fall short of being physical abusers. While some may resort to drastic methods for imposing their will, *e.g.*, AP, *Man Uses Sex Video in Abortion Plot*, L.A. Times (Nov. 8, 1998) (threat of distributing sex tape to family to extort woman's acceding to abortion), countless others will exert less blatant pressure, perhaps suggesting an abortion would preserve the relationship or that waiting until "a better time" would be wise. *E.g.*, Michele Corrison, *Charlie Sheen's Ex-Fiancée Brett Rossi on Their Allegedly Abusive Relationship: 'It Was Just So Toxic and So Violent,'* People (Dec. 7, 2015) (Rossi suit "alleges . . . she had [an] abortion after 'much pressure and threats' from Sheen"). *See* Elizabeth Dwoskin, *Coerced Abortions: A New Study Shows They're Common*, Daily Beast (Oct. 8, 2010).

Again, "easy access" to abortion pills also means easy access for shiftless and sneaky men as well. *E.g.*, Kathryn Mannie, *Texas lawyer charged after allegedly slipping abortion drug into wife's drink*, Global News (Nov. 11, 2022); *Man Gets 22 Years in Prison for Slipping Abortion Pill Into Pregnant Girlfriend's Drink*, Inside Edition (Oct. 11, 2018); Mark Osborne, *Former doctor who slipped abortion drug into girlfriend's tea sentenced to 3 years in prison*, ABCNews (May 19, 2018); Kate Scanlon, *Doctor charged after allegedly slipping abortion pill into his girlfriend's drink*, The Blaze (Dec. 14, 2017); Josh Saul, *Man slopped pregnant girlfriend abortion pills: prosecutors*, N.Y. Post (Mar. 18, 2014).

Abortion and Employer Coercion

Abortion has apparently long been an appealing "solution" for an employer who does not want pregnancy or child care to hamper an employee's devotion to the company. *See, e.g.*, Marcie Bianco & Merryn Johns, *Classic Hollywood's Secret: Studios Wanted Their Stars to Have*

Abortions, Vanity Fair (July 15, 2016). The passage of the Pregnancy Discrimination Act of 1978 (five years after *Roe v. Wade*) reflects this very real concern with employer hostility to pregnancies that are “inconvenient” for the employer. Cases illustrate the problem as well. *See, e.g., Bergstrom-Ek v. Best Oil Co.*, 153 F.3d 851 (8th Cir. 1998) (manager repeatedly pressured employee to have an abortion, contending bearing child would wreck her life and her career); Jessica Hopp & Greg Sandoval, *Mystics Coach Was Cited in Pregnancy Suit*, Wash. Post (Sept. 16, 2002) (head coach allegedly told assistant to choose between aborting or quitting; suit was settled); Lindsay Watts, *DC assistant chief: I was told ‘have an abortion or be fired,’* Fox5 (Oct. 20, 2021).

Abortion and Eugenics and Racism

As Justice Thomas noted in his concurring opinion in *Box v. PPINK*,

the use of abortion to achieve eugenic goals is not merely hypothetical. The foundations for legalizing abortion in America were laid during the early 20th-century birth-control movement. That movement developed alongside the American eugenics movement. And significantly, Planned Parenthood founder Margaret Sanger recognized the eugenic potential of her cause.

139 S. Ct. at 1783 (Thomas, J., concurring). It is well-known that Sanger, Planned Parenthood’s founder, embraced eugenics. Indeed, Planned Parenthood’s current CEO has now admitted as much. Alexis McGill Johnson, *I’m the Head of Planned Parenthood. We’re Done Making Excuses for Our Founder*, N.Y. Times (Apr. 17, 2021). A report from the Center for Urban Renewal and Education, *The Effects of Abortion on the Black Community* (2015), highlights that “[b]lack women have the highest abortion ratio in the country, with 474 abortions per 1,000 live births. Percentages at these levels illustrate that more than 19 million black babies have been aborted since 1973,” *id.* at 3. In addition, “79% of Planned Parenthood’s surgical abortion facilities are strategically located within walking distance of African and/or Hispanic communities.” *Id.* And while blacks make up only about 14% of the population of the United States, Christine Tamier et

al., *Facts About the U.S. Black Population*, Pew Rsch. Center (Mar. 25, 2021), they get 39% of the abortions, “Reported Legal Abortions by Race of Women Who Obtained Abortion by the State of Occurrence,” *Kaiser Fam. Found.* <https://tinyurl.com/KFF2020Ab> (describing 2020 data), meaning that black babies are aborted far in excess of their proportion of the population. Planned Parenthood is the major abortion provider in this country, most recently doing 383,460 abortions per year. Planned Parenthood, Annual Report 2020-2021 <https://tinyurl.com/PP2020-21>.

Plaintiffs’ own expert, Jason Lindo, illustrates the thinking. *See* Lindo Decl. (Doc. 28-2). “[W]omen of color are disproportionately affected” by restrictions on the availability of abortion, he acknowledges. *Id.* at 7, ¶ 23; *see also id.* at 8, ¶ 26. This is a bad thing, he contends, because abortion eliminates children who would further impoverish their families, leading to more children (be they the past and future siblings of the baby who is not aborted, *id.* at 24-25, ¶¶ 71-72, as well, of course, as that particular baby) who are “expected to do worse in school . . . , to have more behavioral and social issues, to have lower earnings as adults, poorer health, and an increased likelihood of criminal involvement” *id.* at 6, ¶ 20. Abortion, in other words, is viewed as protecting certain segments of the population, disproportionately racial minorities, from having more children than would supposedly be good for them.

Meanwhile, abortion appears to be the principal means for eliminating Down syndrome children. Julian Quinones & Arijeta Lajka, *‘What kind of society do you want to live in?’: Inside the country where Down syndrome is disappearing*, CBS News (Aug. 15, 2017) (“Other countries aren’t lagging too far behind [Iceland] in Down syndrome termination rates. According to the most recent data available, the United States has an estimated termination rate for Down syndrome of 67 percent (1995-2011); in France it’s 77 percent (2015); and Denmark, 98 percent (2015)”). And, of course, Down syndrome is merely one example of a disability that is targeted for extermination

through abortion. But abortion is not a “cure.” It simply gets rid of the one with the disability. Easy access to abortion pills facilitates do-it-yourself eugenics.

CONCLUSION

For the foregoing reasons, the Court should issue a preliminary injunction as requested by Plaintiffs.

Respectfully submitted,

/s/Edward L. White

Edward L. White

American Center for Law & Justice

*Counsel for the American Center
for Law & Justice*

Dated: February 10, 2023

Jay Alan Sekulow [REDACTED] *
Jordan Sekulow [REDACTED] *
Stuart J. Roth [REDACTED] *
Christina A. Compagnone [REDACTED] *
Walter M. Weber [REDACTED] *
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American Center for Law & Justice
[REDACTED]

* not admitted in this jurisdiction