

RECOMMENDED FOR PUBLICATION  
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 21a0275p.06

**UNITED STATES COURT OF APPEALS**

FOR THE SIXTH CIRCUIT

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MEMPHIS CENTER FOR REPRODUCTIVE HEALTH;  
PLANNED PARENTHOOD OF TENNESSEE AND NORTH  
MISSISSIPPI; KNOXVILLE CENTER FOR REPRODUCTIVE  
HEALTH; FEMHEALTH USA, INC., d/b/a carafem; DR.  
KIMBERLY LOONEY; DR. NIKKI ZITE,

*Plaintiffs-Appellees,*

v.

HERBERT H. SLATERY, III; LISA PIERCEY, M.D.; RENE  
SAUNDERS, M.D., W. REEVES JOHNSON, JR., M.D.;  
AMY P. WEIRICH; GLENN R. FUNK; CHARME P. ALLEN;  
TOM P. THOMPSON, JR.,

*Defendants-Appellants.*

No. 20-5969

On Petition for Rehearing En Banc.

United States District Court for the Middle District of Tennessee at Nashville;  
No. 3:20-cv-00501—William Lynn Campbell, Jr., District Judge.

Decided and Filed: December 1, 2021

Before: SUTTON, Chief Judge; MOORE, COLE, CLAY, GIBBONS,  
GRIFFIN, KETHLEDGE, WHITE, STRANCH, DONALD, THAPAR,  
BUSH, LARSEN, NALBANDIAN, READLER, and MURPHY, Circuit Judges.

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**COUNSEL**

**ON PETITION FOR REHEARING EN BANC:** Sarah K. Campbell, OFFICE OF THE TENNESSEE ATTORNEY GENERAL, Nashville, Tennessee, for Appellants. **ON RESPONSE:** Jessica Sklarsky, Rabia Muqaddam, Jen Samantha D. Rasay, CENTER FOR REPRODUCTIVE RIGHTS, New York, New York, Thomas H. Castelli, AMERICAN CIVIL LIBERTIES UNION, Nashville, Tennessee, Susan Lambiase, PLANNED PARENTHOOD FEDERATION OF AMERICA, New York, New York, Brigitte Amiri, AMERICAN CIVIL LIBERTIES UNION FOUNDATION, New York, New York, for Appellees. **ON AMICUS BRIEF:** Benjamin M. Flowers, OFFICE OF THE OHIO ATTORNEY GENERAL, Columbus,

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Ohio, S. Chad Meredith, OFFICE OF THE KENTUCKY ATTORNEY GENERAL, Frankfort, Kentucky, Edward L. White III, AMERICAN CENTER FOR LAW & JUSTICE, Ann Arbor, Michigan, for Amici Curiae.

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**ORDER**

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A majority of the Judges of this Court in regular active service has voted for rehearing en banc of this case. Sixth Circuit rule 35(b) provides as follows:

The effect of the granting of a hearing en banc shall be to vacate the previous opinion and judgment of this court, to stay the mandate and to restore the case on the docket sheet as a pending appeal.

Accordingly, it is ORDERED, that the previous decision and judgment of this court are vacated, the mandate is stayed, and this case is restored to the docket as a pending appeal.

The Clerk will direct the parties to file supplemental briefs and will schedule this case for oral argument.

ENTERED BY ORDER OF THE COURT



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Deborah S. Hunt, Clerk