

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

ANDREW BELANGER, JUSTIN PHILLIPS,  
and CALVIN ZASTROW,  
Plaintiffs,

v.

GRETCHEN WHITMER, in her official  
capacity as Governor for the State of Michigan,  
and CITY OF DETROIT,  
Defendants.

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

**EXPEDITED CONSIDERATION  
REQUESTED**

**PLAINTIFFS' *EX PARTE* MOTION FOR TEMPORARY RESTRAINING  
ORDER AND PRELIMINARY INJUNCTION**

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*Attorneys for Plaintiffs*

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs Andrew Belanger, Justin Phillips, and Calvin Zastrow (collectively referred to as "Plaintiffs"), by and through undersigned counsel, hereby move this Court for a Temporary Restraining Order (TRO) and preliminary injunction, seeking to immediately enjoin the enforcement of Executive Order 2020-21 as applied to restrict Plaintiffs' peaceful, expressive religious activity.

This request is narrow. Plaintiffs do not advance a general challenge to the constitutionality of Executive Order 2020-21, nor do they seek to enjoin its enforcement outside of the very limited and narrow scope of this request. Through this motion, Plaintiffs only seek to prohibit the use of Executive Order 2020-21 to criminalize their peaceful, expressive religious activity on the public sidewalks and other public fora outside of abortion centers throughout Michigan. And to be clear, during the exercise of their free speech activity, Plaintiffs will adhere to the social distancing measures recommended by the Centers for Disease Control and Prevention, specifically including remaining at least six feet from people on the public sidewalks.

On March 31, 2020, City of Detroit police officers issued Plaintiff Belanger a criminal citation under Executive Order 2020-21 for engaging in his free speech activity on a public sidewalk outside of an abortion center in Detroit. Yet, under Executive Order 2020-21, an individual could use the very same sidewalk to walk, hike, run, cycle or engage in other similar recreational activity without receiving a criminal citation for doing so.

As set forth more fully in the accompanying memorandum of law, Plaintiffs have been irreparably harmed, and this harm will continue absent injunctive relief from this Court. *See Newsome v. Norris*, 888 F.2d 371, 378 (6th Cir. 1989) (“The Supreme Court has unequivocally admonished that even minimal infringement upon First Amendment values constitutes irreparable injury sufficient to justify injunctive relief.”) (citing *Elrod v. Burns*, 427 U.S. 347 (1976)).

Executive Order 2020-21 remains in effect until at least April 13, 2020, and Plaintiffs want to engage in their First Amendment activity without fear of criminal punishment. Consequently, as set forth in the declarations of Plaintiffs Belanger and Zastrow filed in support

of this motion, Plaintiffs have suffered, and will continue to suffer, “immediate and irreparable injury . . . before the adverse party can be heard in opposition.” Fed. R. Civ. P. 65(b)(1)(A). Accordingly, it is necessary and appropriate for the Court to issue the requested TRO without written or oral notice to Defendants. The Court can then set a telephonic hearing to determine whether a preliminary injunction should issue, and after the hearing either dissolve the TRO or continue it via a preliminary injunction.

In sum, while Executive Order 2020-21 remains in full effect, Plaintiffs will continue to suffer irreparable harm, warranting the requested relief. *Newsome*, 888 F.2d at 378.

WHEREFORE, Plaintiffs respectfully request that the Court immediately issue a TRO, temporarily enjoining the enforcement of Executive Order 2020-21 as applied against Plaintiffs’ expressive religious activity pending a hearing on whether a preliminary injunction should issue.

Respectfully submitted,

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