

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANDREW BELANGER, et al.,

Plaintiffs,

v.

GRETCHEN WHITMER and THE CITY OF
DETROIT,

Defendants.

Case No. 1:20-cv-291

HON. JANET T. NEFF

ORDER

Plaintiffs initiated this civil rights action against Defendants on April 1, 2020 with the filing of a Complaint (ECF No. 1). Plaintiffs accompanied their Complaint with an Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction (ECF No. 2). For the following reasons, the Court denies the request for an Ex Parte Temporary Restraining Order.

Plaintiffs bring their action under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983, challenging Defendant Whitmer's Executive Order No. 2020-21 as applied to "criminalize Plaintiffs' peaceful First Amendment activity on the public sidewalks outside of abortion centers throughout Michigan" (Compl. ¶ 1). Plaintiffs move this Court for a Temporary Restraining Order (TRO) and preliminary injunction to "immediately enjoin the enforcement of Executive Order 2020-21 as applied to restrict Plaintiffs' peaceful, expressive religious activity" (ECF No. 2 at PageID.29).

Federal Rule of Civil Procedure 65(b)(1) allows a court to issue a temporary restraining order without notice to an adverse party or her attorney if:

- (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and
- (B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

FED. R. CIV. P. 65(b)(1). Plaintiffs' Motion fails to meet the strict requirements for issuance of a TRO without notice. Therefore, even assuming arguendo that venue properly lies in this district, the Court finds that the immediate issuance of a temporary restraining order without notice to Defendants is not justified. Accordingly, in the Court's discretion,

IT IS HEREBY ORDERED that Plaintiffs' request for an Ex Parte Temporary Restraining Order (ECF No. 2) is DENIED.

IT IS FURTHER ORDERED that Plaintiffs shall serve a copy of the Complaint and Summons, and the Motion for Ex Parte Temporary Restraining Order and Preliminary Injunction and accompanying documents, on Defendants not later than April 15, 2020, and file a Proof of Service of the same.

IT IS FURTHER ORDERED that Defendants shall file a Response to Plaintiffs' request for a Preliminary Injunction (ECF No. 2) within 14 days of service.

IT IS FURTHER ORDERED that the parties shall, within 14 days of service, confer and attempt in good faith to negotiate a resolution to this dispute. In the event the parties reach a settlement, counsel shall immediately file a notice indicating such.

Dated: April 2, 2020

/s/ Janet T. Neff

JANET T. NEFF
United States District Judge