

ENTERED

December 20, 2021

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

THE SATANIC TEMPLE	§	CIVIL ACTION NO.
INC and ANN DOE,	§	4:21-cv-00387
Plaintiffs,	§	
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
TEXAS HEALTH AND	§	
HUMAN SERVICES	§	
COMMISSION and	§	
CECILE YOUNG,	§	
Defendants.	§	

**ORDER DENYING MOTION TO DISMISS
WITHOUT PREJUDICE AND STAYING CASE**

Plaintiffs here are The Satanic Temple, Inc and Ann Doe. Defendants are the Texas Health and Human Services Commission and Cecile Young, in her official capacity as Commissioner of the Health and Human Services Commission.

Plaintiffs allege that Defendants violated certain of their constitutional and statutory rights. As presented, they assert a claim for violation of “hybrid” or blended protections under the First Amendment as to free speech and free exercise; a claim for violation of equal protection under the Fourteenth Amendment; a claim for violation of substantive due process under the Fourteenth Amendment as interpreted by *Planned Parenthood of Southeastern Pennsylvania v Casey*, 505 US 833 (1992); and a claim for violation of the Texas Religious Freedom Restoration Act, Texas Civil Practice and Remedies Code § 110.001 et seq. Dkt 26. Defendants moved to dismiss for lack of subject matter jurisdiction (as to standing) under Rule 12(b)(1) and

failure to state a claim for which relief can be granted under Rule 12(b)(6). Dkt 28.

The Court addressed Defendants' motion at the initial conference on August 6, 2021. Plaintiffs there withdrew their claims under the Equal Protection Clause. They also noted no objection to dismissal of their claims as to the Texas Religious Freedom Restoration Act for lack of subject matter jurisdiction. Those claims were dismissed without prejudice. See Dkt 33.

Pending before the United States Supreme Court is the recently argued but not yet decided matter of *Dobbs v Jackson Women's Health Organization*, No 19-1392. The Supreme Court there has under consideration whether pertinent standards from *Roe v Wade*, 410 US 113 (1973), *Planned Parenthood of Southeastern Pennsylvania v Casey*, 505 US 833 (1992), and other more recent cases shall continue or be modified. While not directly on point as to all issues pending, it without question bears upon the two remaining claims in this action and the pending motion to dismiss. See also *Whole Woman's Health v Jackson*, No 21-463.

The Court is of the view that circumstances in this matter don't require decision on the pending motion prior to the ruling in *Dobbs*. And plainly, updated briefing as to the merits will be in order following that ruling.

The motion to dismiss by Defendants is DENIED WITHOUT PREJUDICE. Dkt 28. The motion may be re-urged as appropriate as specified below.

This matter is STAYED pending ruling by the United States Supreme Court in *Dobbs v Jackson Women's Health Organization*, No 19-1392.

All deadlines are CANCELLED.

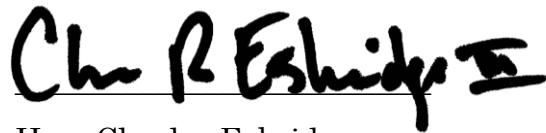
The parties must file a joint status report within fourteen days following the ruling in *Dobbs*. The parties must confer in good faith and briefly report either their agreed or separate views on whether *Dobbs* has narrowed either the differences between the parties or the legal issues appropriate to threshold determination. Defendants

must also there advise as to dispositive motion practice that they would like to undertake, along with briefing deadlines in that regard. Plaintiffs must also there advise whether they will seek leave to further amend their complaint.

Either party may seek leave to lift the stay for good cause shown at an earlier time, if believed necessary and appropriate.

SO ORDERED.

Signed on December 20, 2021, at Houston, Texas.

A handwritten signature in black ink that reads "Ch R Eskridge" with a stylized flourish at the end.

Hon. Charles Eskridge
United States District Judge