

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt  
Clerk

100 EAST FIFTH STREET, ROOM 540  
POTTER STEWART U.S. COURTHOUSE  
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000  
[www.ca6.uscourts.gov](http://www.ca6.uscourts.gov)

Filed: December 01, 2021

Ms. Brigitte Amiri  
Mr. Andrew Beck  
American Civil Liberties Union  
125 Broad Street  
18th Floor  
New York, NY 10004

Ms. Carles Gambaie Anderson  
SisterReach  
2811 Clarke Road  
Memphis, TN 39015

Mr. Christopher P. Burke  
O'Melveny & Myers  
7 Times Square, 33rd Floor  
New York, NY 10036

Mr. John J. Bursch  
Alliance Defending Freedom  
440 First Street, N.W.  
Suite 600  
Washington, DC 20001

Ms. Sarah Campbell  
Office of the Attorney General  
of Tennessee  
P.O. Box 20207  
Nashville, TN 37202-0207

Ms. Alexis Rose Casamassima  
Fried, Frank, Harris, Shriver & Jacobson  
One New York Plaza  
New York, NY 10004

Ms. Melissa Claire Cassel  
O'Melveny & Myers  
Two Embarcadero  
28th Floor  
San Francisco, CA 94111

Mr. Thomas Hauser Castelli  
ACLU Foundation of Tennessee  
P.O. Box 120160  
Nashville, TN 37212

Ms. Kelly M. Dermody  
Lieff, Cabraser, Heimann & Bernstein  
275 Battery Street  
29th Floor  
San Francisco, CA 94111

Mr. Benjamin Michael Flowers  
Office of the Attorney General  
30 E. Broad Street  
14th Floor  
Columbus, OH 43215

Mr. David E. Fowler  
1113 Murfreesboro Road  
Suites 106-167  
Franklin, TN 37064

Mr. Jon M. Greenbaum  
Lawyers' Committee for Civil Rights Under Law  
District Of Columbia  
900 15th Street, N.W.  
Ninth Floor  
Washington, DC 20005

Mr. Mathew Hoffmann  
Alliance Defending Freedom  
20116 Ashbrook Place  
Suite 250  
Ashburn, VA 20147

Ms. Sarah A. Hunger  
Office of the Attorney General of Illinois  
100 W. Randolph Street, 12th Floor  
Chicago, IL 60601

Ms. Kaitland Kennelly  
Ms. Allison Kutner  
Ms. Caroline Pignatelli  
Ms. Ashlesha Srivastava  
Mr. Marc Suskin  
Cooley  
55 Hudson Yards  
New York, NY 10001

Ms. Susan Lambiase  
Planned Parenthood Federation of America  
Public Policy Litigation & Law  
123 William Street  
Floor 9  
New York, NY 10038

Ms. Zhao Liu  
O'Melveny & Myers  
1625 Eye Street, N.W.  
Washington, DC 20006

Ms. Janice Mac Avoy  
Fried, Frank, Harris, Shriver & Jacobson  
One New York Plaza  
New York, NY 10004

Mr. Zachary Martin  
Skadden, Arps, Slate, Meagher & Flom  
500 Boylston Street  
Boston, MA 02116

Mr. Stephen Chad Meredith  
Office of the Attorney General of Kentucky  
700 Capitol Avenue  
Suite 118  
Frankfort, KY 40601

Ms. Rabia Muqaddam  
Center for Reproductive Rights  
199 Water Street, 22nd Floor  
New York, NY 10038

Ms. Jen Samantha D. Rasay  
Center for Reproductive Rights  
199 Water Street, 22nd Floor  
New York, NY 10038

Mr. Stuart Sarnoff  
O'Melveny & Myers  
7 Times Square  
33rd Floor  
New York, NY 10036

Ms. Nigar Shaikh  
Lieff, Cabraser, Heimann & Bernstein  
275 Battery Street  
29th Floor  
San Francisco, CA 94111

Ms. Darina Shtrakhman  
Cooley  
3 Embarcadero Center  
20th Floor  
San Francisco, CA 94111

Jessica Sklarsky  
Center for Reproductive Rights  
199 Water Street  
22nd Floor  
New York, NY 10038

Ms. Priscilla J. Smith  
Law Office  
319 Sterling Place  
Brooklyn, NY 11238

Ms. Rachel Thorn  
Boies Schiller Flexner  
55 Hudson Yards  
20th Floor  
New York, NY 10001

Mr. Edward Lawrence White  
American Center for Law and Justice  
3001 Plymouth Road  
Suite 203  
Ann Arbor, MI 48105

Mr. Geoffrey M. Wyatt  
Skadden, Arps, Slate, Meagher & Flom  
1440 New York Avenue, N.W.  
Washington, DC 20005

Ms. Tiseme G. Zegeye  
Lieff, Cabraser, Heimann & Bernstein  
275 Battery Street  
29th Floor  
San Francisco, CA 94111

Re: Case No. 20-5969, *Memphis Ctr for Repro Health, et al v. Herbert Slatery, III, et al*  
Originating Case No. : 3:20-cv-00501

Dear Counsel,

The attached order designated for full-text publication was filed today in this case.

Yours very truly,

Deborah S. Hunt, Clerk

Cathryn Lovely, Opinions Deputy

cc: Ms. Lynda M. Hill

Enclosure

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,

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