

ORIGINAL

FILED

09/30/2021

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: OP 21-0494

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 21-0494

DR. JOEY BANK, PLANNED PARENTHOOD
OF MONTANA,

Petitioners,

v.

MONTANA THIRTEENTH JUDICIAL
DISTRICT COURT, YELLOWSTONE
COUNTY, HON. GREGORY R. TODD, Presiding
Judge,

Respondent.

FILED

SEP 30 2021

Bowen Greenwood
Clerk of Supreme Court
State of Montana

ORDER

Petitioners filed this morning a petition for writ of supervisory control, seeking an emergency stay of the enforcement of several laws set to take effect at midnight tonight until their motion for preliminary injunction, now pending before the Thirteenth Judicial District Court in Yellowstone County Cause No. DV 21-00999, is resolved either by this Court or by the District Court. The underlying matter has been pending in the Thirteenth Judicial District since the Petitioners filed their Complaint on August 16, 2021. Following the recusal of one judge and the State's substitution of another, Judge Gregory R. Todd assumed jurisdiction of the case. Judge Todd held a hearing on Petitioners' motion for preliminary injunction on September 23, 2021, and advised the parties he would issue a ruling before the laws' October 1 effective date.

On September 29, the State of Montana filed a motion and affidavit to disqualify Judge Todd pursuant to § 3-1-805, MCA. The State also filed its motion with the Clerk of this Court this morning. Petitioners assert that the challenged laws "will immediately infringe on the fundamental rights of Montanans seeking abortion care and subject Petitioners to substantial criminal penalties for providing that constitutionally protected

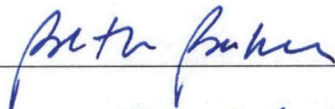
care.” Petitioners contend that Judge Todd’s inability to act on the case while the disqualification motion is pending creates the requisite urgency for this Court to exercise its discretionary authority of supervisory control in accordance with M. R. App. P. 14(3). They urge the Court to issue an immediate stay of enforcement of the challenged laws to preserve the status quo until a court resolves whether Petitioners are entitled to preliminary relief.

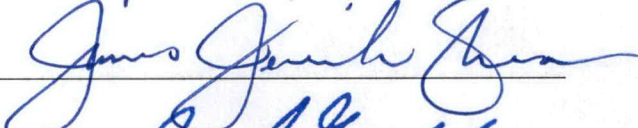
Since the filing of the State’s disqualification motion and the petition for writ of supervisory control, Judge Todd has issued an order disqualifying himself from the underlying case, and a new judge has assumed jurisdiction. Because the motion for preliminary injunction remains pending in that case and it is now before a judge in jurisdiction, the circumstances that would counsel this Court’s immediate intervention are no longer present. Petitioners may seek the requested relief through ordinary processes in the pending case.

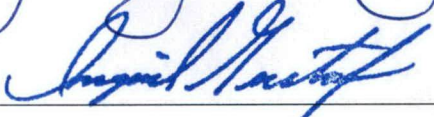
IT IS THEREFORE ORDERED that the Petition for Writ of Supervisory Control is DENIED and DISMISSED WITHOUT PREJUDICE.


The Clerk is directed to provide notice of this Order to counsel for the Petitioner, to all counsel of record in Yellowstone County Cause No. DV-21-00999, and to the Thirteenth Judicial District Court, the Hon. Michael G. Moses, presiding.


Dated this 30th day of September, 2021.











Justices