
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

PLANNED PARENTHOOD
ASSOCIATION OF UTAH,

Plaintiff,

vs.

GARY R. HERBERT et al.,

Defendants.

**TEMPORARY RESTRAINING
ORDER**

Case No.: 2:15-cv-693-CW

Judge Clark Waddoups

This matter is before the court on a Motion for Temporary Restraining Order filed by Plaintiff Planned Parenthood Association of Utah (“PPAU”). A hearing on the motion was held before the Honorable Clark Waddoups on September 29, 2015 at 10:00. Counsel for each of the parties were present. After due consideration of Plaintiff’s briefing, the parties’ oral arguments, and otherwise being fully advised,

IT IS HEREBY ORDERED, for the reasons more fully stated on the record, that Plaintiff’s Motion for a Temporary Restraining Order is GRANTED.

1. The court concludes that the balance of the harm favors the plaintiff. Plaintiff’s funding source for important programs will cease and potential reputational harm is present. In contrast, the defendants will suffer no harm by temporarily maintaining the status quo.

2. The court also concludes that public interest favors the plaintiff. The programs

carried out by Plaintiff target at-risk individuals and the reduction of communicable diseases. These are strong public interests that outweigh the defendants' stated interests in defunding PPAU.

3. Plaintiff has asserted constitutional rights based on Equal Protection, the First Amendment, and Due Process under the Fourteenth Amendment. If the defendants' action violate Plaintiff's constitutional rights, the court concludes such a deprivation constitutes irreparable harm.

4. At this stage of the proceedings, the court concludes a substantial likelihood exists that Plaintiff's will be able to prove the defendants' actions have violated Plaintiff's right of equal protection and freedom of association. Plaintiff's have been singled out based on Plaintiff's association with an organization against whom accusations have been made of illegal conduct. Those accusations are still under investigation and have not been proved. There are no accusations that Plaintiff's have engaged in similar conduct. Accordingly, the defendants' basis for terminating contracts with Plaintiff appear to have been based on unconstitutional grounds

Due to the emergency nature of these proceedings, the court recognizes the defendants have not had the opportunity to brief the issues before the court. When the briefing is complete and an evidentiary hearing has been completed, the conclusions reached today may be different. Based on the present record, however, the court enters the following injunction.

INJUNCTION

Gary R. Herbert, in his official capacity as Governor of the State of Utah, and Joseph K. Miner, M.D., in his official capacity as the Executive Director of the Utah Department of Health, are enjoined from defunding or denying funding to Planned Parenthood Association of Utah ("PPAU") on impermissible constitutional grounds, including PPAU's association or affiliation with the

national Planned Parenthood organization. The injunction does not require the defendants to continue contracts, renew contracts, or issue new contracts. If the defendants defund, decline to renew, or do not issue a contract to PPAU, however, they are required to state in writing a legitimate basis for so doing prior to the time their decision takes effect. Such basis cannot include unproven allegations against the national Planned Parenthood organization. This injunction shall remain in effect until an evidentiary hearing is held on **October 15, 2015 at 9:30**. The parties have expressly agreed the status quo may be maintained beyond 14 days to allow adequate time for briefing and an evidentiary hearing.

BRIEFING SCHEDULE

The defendants shall file responsive briefing on or before **October 9, 2015 at 5:00 p.m.** To ensure the court has adequate time to review a reply brief, the courts amends the plaintiff's briefing schedule. The reply brief shall be filed by **October 13, 2015**.

DATED this 29th day of September, 2015.

BY THE COURT:



Clark Waddoups
United States District Court