

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 20-50264

In re: GREGG ABBOTT, in his official capacity as Governor of Texas; KEN PAXTON, in his official capacity as Attorney General of Texas; PHIL WILSON, in his official capacity as Acting Executive Commissioner of the Texas Health and Human Services Commission; STEPHEN BRINT CARLTON, in his official capacity as Executive Director of the Texas Medical Board; KATHERINE A. THOMAS, in her official capacity as the Executive Director of the Texas Board of Nursing,

Petitioners

Petition for a Writ of Mandamus
to the United States District Court for the
Western District of Texas

Before DENNIS, ELROD, and DUNCAN, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the district court's order of March 30, 2020 (Dkt. No. 40) is TEMPORARILY STAYED until further order of this court to allow this court sufficient time to consider petitioners' emergency motion for stay and petition for writ of mandamus.

IT IS FURTHER ORDERED that plaintiffs-respondents be directed to file a response to the emergency motion for stay no later than Wednesday, April 1, 2020, at 8:00 a.m. Any reply by petitioners is due no later than Wednesday, April 1, 2020, at 8:00 p.m.

IT IS FURTHER ORDERED that plaintiffs-respondents be directed to file a response to the petition for writ of mandamus no later than Thursday, April 2, 2020, at 8 p.m. Any reply by petitioners is due no later than Friday, April 3, 2020, at 5 p.m.

IT IS FURTHER ORDERED that the filing of an amicus brief by States, Alabama, Arkansas, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Utah, and West Virginia, is allowed.

JAMES L. DENNIS, Circuit Judge, dissenting:

A federal judge has already concluded that irreparable harm would flow from allowing the Executive Order to prohibit abortions during this critical time. I would deny the stay. Moreover, I write separately to make clear that, per the Executive Order, “any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID-19 disaster” is exempt.