

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
Louisville Division

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 317-cv-432-DJH
)	
RUSTY THOMAS, JAMES SODERNA,)	
THOMAS RADDELL, DAVID GRAVES,)	
LAURA BUCK, CHRIS KEYS,)	
JAMES ZASTROW, EVA EDL,)	
EVA ZASTROW, and DENNIS GREEN,)	
)	
Defendants.)	
_____)	

**ORDER ISSUING TEMPORARY RESTRAINING ORDER
ON THE MOTION OF THE UNITED STATES OF AMERICA**

AND NOW, this 21st day of July, 2017 at the hour of 9:00 a.m., upon consideration of the Motion of The United States of America for Temporary Restraining Order and Preliminary Injunction against Defendants Rusty Thomas, James Soderna, Thomas Raddell, David Graves, Laura Buck, Chris Keys, James Zastrow, Eva Edl, Eva Zastrow, Dennis Green, and any representatives, agents, employees, or any others acting in concert or participation with any Defendant; and the Court having considered the United States’ Complaint and Memorandum of Law in Support thereof, this Court hereby finds for the purposes of this motion:

FINDINGS

1. Defendants’ conduct in physically obstructing the entrance to EMW Women’s Surgical Center (“EMW”) as described in the United States’ Complaint, Motion for Temporary Restraining

Order and Preliminary Injunction, Memorandum of Law in Support thereof, and the Affidavit in Support of the Temporary Restraining Order and Preliminary Injunction, is actionable under the Freedom of Access to Clinic Entrances (“FACE”) Act, 18 U.S.C. § 248 (1994), and the United States is entitled to the requested temporary injunctive relief.

2. Specifically, the United States has presented evidence that the Defendants violated the FACE Act on May 13, 2017, by physically obstructing patients’ and providers’ access to the entrance of EMW, located at 136 W. Market Street, Louisville, Kentucky.

3. The United States has further demonstrated, through evidence of public statements made by Defendant Rusty Thomas and others associated with Operation Save America (“OSA”), that Defendants intend to carry out further violations of the FACE Act at EMW in the future, specifically between the dates of July 22nd and July 29th, 2017.

CONCLUSIONS

4. This Court has jurisdiction over this action pursuant to FACE, 18 U.S.C. § 248 (1994), and 28 U.S.C. § 1345.

5. The United States has standing to bring this action and to seek a temporary restraining order pursuant to FACE, 18 U.S.C. § 248(c)(2).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2) in that all the events giving rise to the United States’ Complaint and Motion for Temporary Restraining Order and Preliminary Injunction occurred in this judicial district.

7. The United States has established all the elements required for the granting of a temporary restraining order, namely: (1) that the United States has a strong likelihood of success on the merits; (2) that failure to issue a temporary restraining order will likely result in irreparable injury; (3) that issuing a temporary restraining order will not cause substantial harm

to others; and (4) that the public interest would be served by issuing a temporary restraining order.

8. The United States has further certified in writing its efforts to give notice to Defendants and the reasons why it should not be required, in accordance with Federal Rule of Civil Procedure 65(b)(1)(B). Specifically, the United States has made attempts to give notice to Defendants by contacting criminal defense counsel for the individual Defendants and providing him with a copy of these pleadings, through certified mail, and through attempts at personal service on named Defendants. The United States has further demonstrated that, because of the time-sensitivity of its motion and the risk of irreparable harm, notice should not be required.

9. The United States has demonstrated the imminent risk of irreparable injury in the form of interference with EMW's patients' and their escorts' access to reproductive health services; interference with EMW's provision of reproductive health services to its patients; and risks to public safety, all injuries which cannot be fully compensated through monetary damages.

10. Because the United States is the moving party, no security is required. Fed. R. Civ. P. 65(c).

11. The United States is thus entitled to the following Temporary Restraining Order for 14 days, pending determination of the United States' Motion for Preliminary Injunction or until further order of this Court.

TEMPORARY RESTRAINING ORDER

12. Defendants Rusty Thomas, James Soderna, Thomas Raddell, David Graves, Laura Buck, Chris Keys, James Zastrow, Eva Edl, Eva Zastrow, and Dennis Green, and any representatives, agents, employees, or any others acting in concert or participation with any Defendant, are hereby temporarily restrained from:

a. using physical obstruction to intentionally interfere with any person, or attempting to intentionally interfere with any person, because the person was or had been obtaining or providing reproductive health services at EMW; and

b. coming within a “buffer zone” directly outside EMW’s entrance, between EMW’s property and the curbside patient drop off zone, marked by a solid yellow rectangle on Exhibits A and B and comprising a grid of 5-by-7 concrete sidewalk slabs, approximately 15 feet from south to north (extending from EMW’s property line to the patient drop zone), by approximately 7.5 feet from east to west (extending to and from columns supporting an overhang to EMW’s entrance). Defendants and any representatives, agents, employees, or any others acting in concert or participation with any Defendant are further restrained from entering onto EMW property, identified by the solid white line on the pavement in front of EMW abutting the sidewalk running east and west along West Market Street. (See Exhibit A to the United States’ Complaint)

13. The terms of paragraph 12(b) of this Temporary Restraining Order only apply during EMW’s hours of operation as indicated on EMW’s website, and during the time periods both two hours before and two hours after EMW’s hours of operation.

14. This Temporary Restraining Order does not restrict any of the rights of the Defendants, including their First Amendment rights, outside the zone described in paragraph 12(b) of this

Temporary Restraining Order. Nor does this Order restrict any rights of the Defendants, including their First Amendment rights, inside the zone described in paragraph 12(b) at any times other than those described in paragraph 13 of this Temporary Restraining Order.

15. Further, the U.S. Marshals Service is hereby ordered to post this Temporary Restraining Order visibly at or around the premises described herein, and to provide copies to the Defendants and any representatives, agents, employees, or any others acting in concert or participation with any Defendant at or around the premises described herein between July 22-29, 2017. The U.S. Marshals Service and any other authorized federal law enforcement officers acting in concert with the U.S. Marshals Service are further hereby ordered to enforce the terms of this Temporary Restraining Order and are authorized to use reasonable means to execute this Temporary Restraining Order and to arrest any person who impedes their execution of this Temporary Restraining Order. Local, state and federal law enforcement agencies are authorized to enforce the terms of this Temporary Restraining Order.

David J. Hale, Judge
United States District Court

A handwritten signature in black ink, appearing to read "D.J. Hale", is written over a circular official seal. The seal is partially obscured by the signature but contains some text around its perimeter.