

Exhibit 1

Declaration of Gloria Gray

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

WEST ALABAMA WOMEN'S CENTER, et al.,

Plaintiffs,

v.

DONALD E. WILLIAMSON, M.D., in his official
capacity as State Health Officer of the State of
Alabama,

Defendant.

CIVIL ACTION

Case No. _____

Gloria Gray declares and states as follows:

1) I am the owner and administrator of the West Alabama Women's Center, Inc. ("WAWC" or "the Clinic"), located in Tuscaloosa, Alabama, which I co-founded with Dr. Louis Payne more than twenty years ago, in 1993. WAWC is and always has been the only licensed abortion clinic in Tuscaloosa. WAWC is a plaintiff in this case on behalf of itself and its patients. I submit this affidavit in support of Plaintiffs' Motion for a Temporary Restraining Order against Ala. Admin. Code r. 420-5-1-.03 ("the Regulation" or "Rule").

2) As the Clinic's long-time owner and sole administrator, I am very familiar with the Regulation, which requires (1) that every physician that works at any abortion clinic to obtain staff privileges, sufficient to perform dilation and curettage, laparotomy procedures, and hysterectomy, at a nearby hospital or (2) that the clinic obtain a written agreement with an outside covering physician who has such privileges. Until recently, the Clinic never faced any difficulty complying with this Rule because Dr. Payne held staff privileges at DCH Regional

Medical Center (“DCH”)—the only hospital in Tuscaloosa—from 1967, until he retired at the end of last year.

3) Although I have found an extremely experienced, highly credentialed ob-gyn, Dr. Willie J. Parker, who is also a plaintiff in this case, who is willing to move to Tuscaloosa to replace Dr. Payne, Dr. Parker has been unable to obtain staff privileges at DCH. Moreover, after approaching every conceivable qualified ob-gyn in Tuscaloosa, I have been unable to secure a written contract with a local physician to serve as the Clinic’s outside covering physician.

4) Due to the Clinic’s inability to comply with the Regulation, on May 6, 2015, I requested a waiver of the Regulation, as applied to the Clinic, from the Alabama Department of Public Health (“DPH”). On May 22, the waiver was denied. Having exhausted all other options, I seek an order from this Court enjoining the Regulation, as applied to the Clinic. Without that relief, the Clinic will be forced to surrender its license and permanently shut its doors. If access to safe abortion in Tuscaloosa is eliminated, I will not only lose my business, but far more importantly a vast number of women and families will also suffer significant and irreversible harm.

WEST ALABAMA WOMEN’S CENTER

5) At WAWC, we provide medication abortions up to 63 days, as measured from a woman’s last menstrual period (LMP) and surgical abortions up to 21.6 weeks LMP, though the vast majority of our patients (approximately 80%) obtain abortions much earlier in pregnancy (prior to 11 weeks LMP). In addition to abortions, WAWC provides a range of reproductive health services, including routine gynecological procedures, birth control, testing and treatment

for sexually transmitted infections, pregnancy testing and options counseling, and referrals for prenatal care and adoption.

6) Today, WAWC is one of only five licensed abortion clinics in Alabama, and the only licensed abortion clinic in Tuscaloosa. The other clinics are in Birmingham, Mobile, Montgomery, and Huntsville. To the best of my knowledge, WAWC is the first and only licensed abortion clinic ever to operate in Tuscaloosa. Furthermore, WAWC is one of only two licensed abortion clinics in Alabama that provides abortions throughout the second trimester; the other such clinic is in Huntsville.

7) WAWC is licensed by the Alabama Department of Public Health ("DPH") as an "abortion or reproductive health center." This means we are subject to extensive and detailed regulations, including, but not limited to, to those relating to patient care, infection control, personnel, physician qualifications, fire evacuation plans, emergency communications, recordkeeping, and physical plant requirements. To ensure compliance with these and all other regulations, the clinic is subject to unannounced inspections by DPH on an annual basis. In twenty-two years, WAWC's license has never been suspended, placed on probation, or revoked.

8) As of 2013, we have also been subject to burdensome and unnecessary building requirements, designed for ambulatory surgical centers, which perform far more dangerous and complex procedures than abortion. All told, it cost more than \$130,000 to bring the Clinic into compliance with the new law.

9) Beginning in 2012, DPH started publishing the number of abortions performed annually at each clinic. According to these numbers, we provide more abortions annually than any other clinic in the state, by a large margin. For example, in 2013, DPH statistics show WAWC provided 3,710 abortions out of 8,485 total abortions provided in Alabama that year

(approximately 44%). By comparison, the clinic that provided the second-highest number of abortions in 2013 provided 1,469 abortions (approximately 17%). In 2012, DPH statistics show WAWC provided 3,503 abortions out of 9,076 total abortions provided in Alabama that year (approximately 39%). By comparison, the clinic that provided the second-highest number of abortions in 2012 provided 1,451 abortions (approximately 16%). Although DPH has not yet published statewide statistics for 2014, my own numbers show that we performed 4,723 abortions last year; we performed 2,533 in just the first six months of the year.

10) In terms of second trimester abortions, WAWC performs an even greater percentage of the state's total number of abortion procedures. According to the same DPH statistics from 2012 and 2013, we performed more than 60% of second trimester abortions and nearly 80% of all abortions in Alabama after 17 weeks LMP. Moreover, according to our records, in the first 6 months of 2014, WAWC performed 179 abortions after 16 weeks LMP.

11) The high volume can be explained, at least in part, by the fact that at WAWC we performed abortions five days per week; this includes Saturdays (we were closed Wednesdays and Sundays). Saturdays were always our busiest days. Many patients told us that Saturday was the only day they could get off work or find someone who could drive them to the Clinic. As I understand it, the only other provider of second trimester abortions in the state is unable to provide abortions on the weekend because of a zoning restriction.

**ATTEMPTS TO OBTAIN STAFF PRIVILEGES AND/OR
OUTSIDE COVERING PHYSICIAN**

12) Because Dr. Payne held staff privileges at DCH Regional Medical Center before we opened in the clinic in 1993, and maintained them throughout the entire time the Clinic was open, WAWC never faced any difficulty complying with the Rule. Dr. Payne was able to maintain these privileges even though the Clinic rarely had any complications that required

hospital-based care because he continued to perform other gynecological procedures at the hospital on patients he saw outside the Clinic (usually patients with whom he had a preexisting relationship from his days when he had a full ob-gyn practice). Indeed, over the past five years, less than 1/10th of one percent of our patients were transferred from the clinic to DCH for observation or for a complication related to abortion.

13) Because Dr. Payne had staff privileges, the Clinic did not need to enter into a formal written agreement with an outside covering physician, which is the alternative legal requirement under the Regulation.

14) Last November, at age 75, Dr. Payne informed me that he was going to resign at the end of the year. Since that time, I have been working to find either a physician to provide abortions at the clinic who could obtain staff privileges at DCH or to find a local physician with staff privileges at DCH who was willing to sign a written contract to be the Clinic's covering physician. I have been unsuccessful on both fronts.

15) As soon as I learned Dr. Payne was retiring, I reached out to Dr. Willie J. Parker, whom I knew to have recently relocated to Alabama and to be working at Reproductive Health Services ("RHS") in Montgomery, on occasion. I was aware of Dr. Parker's reputation as an experienced and highly regarded ob-gyn and abortion provider and was hopeful he would be willing to provide abortions at our clinic, as well. After talking to Dr. Parker, I learned that he was not only interested in providing abortions at the clinic, but would also be interested in moving to Tuscaloosa in order to apply for staff privileges at DCH.

16) I assisted Dr. Parker in putting together his application for privileges, which was submitted in December 2014. Based on his experience and credentials and his willingness to move to Tuscaloosa, I was optimistic that he would be able to obtain privileges—particularly

because DCH is connected to the University of Alabama and Dr. Parker has served on the faculty at a number of other academic hospitals.

17) On March 4, 2015, I learned that the Professional Activity Committee (“PAC”) at DCH had recommended to the Executive Committee and the Board of Directors of the hospital that his application be approved.

18) My understanding was that the PAC’s approval of Dr. Parker’s application was based on an agreement between Dr. Parker and a group of University-affiliated ob-gyns that these doctors would proctor (observe) Dr. Parker perform 10 hysterectomies and 10 laparotomies on their patients to their satisfaction. This arrangement with another practice was necessary for Dr. Parker to be able to show competency to perform the procedures for which he was requesting privileges: Because abortion is so safe, the clinic would not generate nearly enough complications for the hospital to observe Dr. Parker’s skills. So, the only way Dr. Parker would be able to satisfy the hospital of his surgical skills would be if he worked alongside other ob-gyns, providing care to their patients. A doctor from the University-affiliated practice had sent a letter to the PAC, dated March 2, 2015, stating that that he and three of his colleagues were willing participate in the proctoring process. A true and accurate copy of this letter is attached hereto as Exhibit A.

19) Given the PAC’s approval of Dr. Parker’s application, I assumed privileges would be granted at the Board of Director’s meeting on March 10. Because one of the doctors at the University practice had also stated (in writing) his willingness to serve as a back-up for Dr. Parker for Dr. Parker’s abortion patients, we started scheduling patients. We saw patients for their 48-hour counseling requirement on March 9 and did procedures over five days starting March 11.

20) However, Dr. Parker and I soon learned that, despite the PAC's recommendation, the Board did not approve his application and had, instead, raised some questions about the proctoring arrangement and sent the application back to the PAC for further discussion. At that time, we decided to stop scheduling any new patients and have not scheduled or seen any patients since then.

21) I do not know the nature of the PAC's subsequent discussions about Dr. Parker's application. But on April 2, the clinic received another letter from the University-affiliated ob-gyn groups, signed by all the doctors in the group—including the one who had signed both the first letter agreeing to the proctoring arrangement *and* the back-up agreement with Dr. Parker—making clear that the group *would not* permit Dr. Parker to assist with their patients. The letter also went on to state that this group was unable to “be the back-up group for the West Alabama Women's Center, Inc.” This basically ruined any chance Dr. Parker had of obtaining staff privileges at DCH. It also effectively revoked the back-up agreement for the Clinic's patients and, as discussed below, I have been unable to find anyone else to sign such an agreement. A true and accurate copy of this letter is attached hereto as Exhibit B.

22) I am not aware of any other physician in Tuscaloosa, or anywhere else in Alabama, who is willing and able to provide abortions at WAWC and who could meet DCH's criteria for staff privileges.

23) Throughout the time that the application for privileges was pending, I was also trying to find a covering physician for the clinic. In my outreach I made it clear that this was a paid position and that we would work with DPH to ensure that the identity of the covering physician would be kept confidential to the best extent possible.

24) Based on my years of experience operating an abortion clinic in Tuscaloosa and working with Dr. Payne, who began his career as an ob-gyn in Tuscaloosa in 1967, I believe I am familiar with all the ob-gyns in the area who have staff privileges at DCH and would therefore be qualified to serve as an outside covering physician for the clinic. There are three group ob-gyn practices in Tuscaloosa. The first is the University-affiliated group whose members, as explained above, have already refused to sign the necessary agreement. The second is a private group practice. At a meeting in February, a doctor from that practice informed Dr. Parker that the group was unwilling to do anything to help the Clinic. The only other private group practice is headed by an individual known to be strongly opposed to abortion.

25) In addition to these group practices, there are two ob-gyns in the greater Tuscaloosa area in solo practices that have the requisite privileges. Neither of these doctors is willing to sign the necessary agreement either. Dr. Payne and I made multiple unsuccessful attempts to reach one of the solo practitioners, including calling multiple times to schedule a meeting and even dropping by at her office unannounced on more than one occasion, but that doctor's secretary finally called us to relay the message that the doctor was unwilling to help. The other solo practitioner refused to sign the agreement because of concerns about how it would affect that doctor's career.

26) On the one hand, these responses are not surprising given the level of harassment and violence that people involved in abortion care face. At my clinic alone, we have had gunshots through our window, bomb threats, and, on one occasion, a man attempted to drive his car through the clinic. In 1997, the Clinic was set on fire by arsonists and suffered such damage that it had to be completely gutted and re-built. Protesters targeted Dr. Payne in the neighborhood where he lives, including on Thanksgiving and Christmas, and in front of his church. The latter

was particularly chilling to me because in 2009, my friend Dr. George Tiller, a well-known abortion provider, was murdered at his church. And just this past May, I was also targeted near my home, when an anti-abortion activist distributed flyers that included my name, photo, and home address throughout the area. Thus, I can understand why even physicians who support a woman's right to decide to have an abortion may nonetheless be reluctant to become involved in the provision of abortion care.

27) On the other hand, after more than 20 years of providing medical care in this community, it is extremely disappointing to me that there is not a single physician willing to step up to help the women of Alabama—including *their* patients. Over the years, we have received hundreds of referrals from these physicians. In other words, these physicians send their patients to us because we can help them when they have nowhere else to go. Yet, even with the offer of a sizeable monthly retainer and an additional fee per patient, none of these physicians is willing to sign a confidential piece of paper stating their willingness to provide *post-abortion* care to the few of our patients, if any, each year who need it.

DENIAL OF DPH WAIVER

28) On May 6, about one week after the Clinic's last option for a covering physician was exhausted, I applied to DPH for a waiver of the Regulation. In support of the application, I provided DPH with copies of our policies and protocols for managing patient complications and also submitted a letter from Dr. Parker, explaining the safety of abortion, his own extremely low complication rate, and detailing how he would handle a complication or emergency. A true and accurate copy of the waiver application is attached hereto as Exhibit C.

29) On May 12, I supplemented the application with a letter from Dalton Johnson, the owner and administrator of the clinic in Huntsville, explaining the increase in patients –

particularly those later in pregnancy – he has seen during WAWC’s closure, his inability to expand his capacity beyond what he is already doing, and the inevitable backlog that will result if WAWC cannot reopen. A true and accurate copy of this letter is attached hereto as Exhibit D.

30) On May 22, I received a letter from DPH denying the waiver. The letter did not provide any explanation or response other than to say that the outside covering physician requirement was “essential.” Even though I sent them Mr. Johnson’s letter confirming how bad the situation is becoming, the denial did not mention anything about the women who were being harmed by the Clinic’s closure. A true and accurate copy of this letter is attached hereto as Exhibit E.

IMPACT OF THE CLOSURE ON OUR PATIENTS AND THE NEED FOR URGENT RELIEF

31) My patients’ safety has always been my number one concern. I am confident that our policies ensure that the exceedingly few patients that are transferred from the Clinic to DCH, or who seek care at DCH after discharge, will receive high-quality care. We have a 24-hour hotline staffed by a RN and the Medical Director (Dr. Parker), detailed protocols for communication with a hospital or another treating physician in the event of a complication or an emergency, and we guarantee any patient needing non-urgent follow-up care can be seen at her earliest convenience on any of the five days that we are open.

32) By the same token, I am certain that our closure over the past six months has had a significant negative impact on our patients. Although we are not seeing patients, I have kept our phone lines open and staffed so that we can continue to provide women with information and referrals. Given the conversations my staff and I have been having with our would-be patients, I fear that if we do not reopen the impact will be devastating.

33) In my experience, women seek abortions for a variety of reasons, including familial, medical, financial, and personal reasons, including the desire to wait to have a child (or another child) until they are ready; to preserve their life or their health; because they have become pregnant as a result of rape; and/or because they choose not to have biological children. In particular, women who seek second-trimester abortions usually do so because of difficult circumstances. Many women are forced to obtain an abortion at later gestational ages because of issues related to poverty, intimate partner violence, and overall diminished access to abortion throughout the South. Others decide to have an abortion only after learning the fetus has been diagnosed with a severe, even lethal, anomaly (many of which cannot be diagnosed until later in pregnancy).

34) To understand how our closure affects our patients, it is important to recognize that the vast majority of our patients are extremely poor. According to the Clinic's 2014 records, 82% of our patients are living at or below 110% of the federal poverty level. It is not only extremely difficult for these patients to afford the cost of the procedure, but they also struggle to cover other costs like child care, transportation, or lost wages. Many of our patients do not have their own cars, and must depend on others to drive them to the clinic, or take cabs or buses. Indeed, as I stated before, many of our patients have also told us that, had it not been for the fact that we were open on Saturdays, they would not have been able to get a ride to the clinic or take the time off from work and come to the clinic at all.

35) However, if a woman cannot obtain an abortion in Tuscaloosa, her closest option is to travel about 59 miles to the Planned Parenthood clinic in Birmingham. My understanding is that that, unlike WAWC which provided abortions five days per week (including Saturdays), the Birmingham clinic is only providing abortions one or two days per week, and, at least as of May

2015, has limited availability due to staff schedules. If a woman is unable to schedule an appointment at Planned Parenthood, she can try Reproductive Health Services in Montgomery (“RHS”), around 100 miles away. But my understanding is that clinic also provides abortions only two days per week.

36) Moreover, since neither Planned Parenthood nor RHS provides abortions throughout the second trimester many women will have to travel even farther to get the care they need. The only other clinic in the state that provides abortions through the second trimester is Alabama Women’s Center in Huntsville, more than 150 miles away. That clinic provides abortions four days per week, *not* including Saturdays.

37) Over the past six months, the Clinic has received numerous phone calls, not only from women and their families, but from doctors, nurses, a domestic violence shelter, and even county health departments, asking for help for their patients or the women they serve. On one occasion, we were contacted by the District Attorney from a nearby county on behalf of a 12 year old rape victim, after the victim told him we had referred her to Huntsville. The D.A. was extremely upset to learn that we were closed and had no choice but to refer her elsewhere, and that he would have to transport the young girl all the way to Huntsville just to get her the care she needed.

38) Indeed, many women have told us that finding transportation to a clinic outside Tuscaloosa will be extremely difficult, and for many impossible. For some women, there is simply no realistic means that they will be able to travel to another clinic and therefore, although we urge them not to, they have told us that they have no choice but to wait to see if we reopen.

39) We don’t just receive phone calls, either. In some heartbreaking cases, women have shown up at the Clinic itself and we have no choice but to turn them away, even when we

know they have literally nowhere else to go. For example, a father recently brought his 15 year old daughter, whose pregnancy was extremely close to Alabama's legal limit (22.0 weeks LMP) for abortion, to the Clinic. By the time they could get an appointment at the Huntsville clinic, the young girl would be past the legal limit. It was simply devastating to know that this girl's life would be forever changed, just because of this needless regulation.

40) Another time a lawyer came to the Clinic to try to make an appointment for his client who was in the local jail. I have no idea if he was able to arrange for the jail to transfer her to another clinic: given the 48 hour waiting period, that would be at least 4 trips of 60-150 miles each way.

41) Still another time my staff called me because a woman had shown up at the Clinic saying she knew we weren't doing abortions, but she had no way to get to another clinic; she was so desperate not to have the baby that she threatened to take drastic measures if she could not get a safe and legal abortion. I spoke to the woman myself and tried to brainstorm with her ways she might come up with the resources she needed to get to Huntsville, but I never heard back from her. It is because of these women that I have kept fighting against all odds to keep the clinic open, including by bringing this lawsuit (which was my last resort). But I have to do everything I possibly can or I will feel like I have abandoned these women when they needed me the most.

42) The longer the Clinic is closed, the more women will be harmed. At the very least, many more women will be forced to seek abortions later in pregnancy as they try to save the money and make arrangements to make the trip to another clinic. I understand that this is already happening at the other clinics in the state. And many more will be deprived of the ability

to have an abortion altogether. Others, may be so desperate that they turn to an unlicensed, unsafe provider or, like the woman who came to our clinic, attempt to self-abort.

CONCLUSION

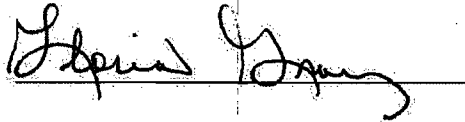
43) I am now out of all other options for keeping the Clinic open, except a lawsuit.

44) Since January, I have kept my staff on salary and paid other necessary expenses, even though there was no money coming in. Despite the substantial cost, which has drained money that would otherwise have been used for my retirement, I felt it did not make sense to go to all the effort of obtaining privileges or finding a covering physician, only to have lost the rest of my staff and for the Clinic to be otherwise non-operational. However, this simply is not sustainable for much longer, not only from a financial perspective but also because some members of my staff have stated that they will tender their resignations within the next few weeks if there is no hope for the clinic. In addition, by August 5, I have to pay approximately \$10,000 just to prevent our malpractice insurance from lapsing.

45) Therefore, without an order from this Court by August 4, preventing DPH from enforcing the Regulation against the Clinic, I feel I will have no real option but to lay off my staff and close the Clinic. The permanent closure of WAWC will cause extraordinary harm, to the health and wellbeing of Alabama women.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration

was executed on 15th, 2015, in July

A handwritten signature in cursive script, appearing to read "Gloria Gray", is written over a horizontal line.

Gloria Gray