

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

COMPREHENSIVE HEALTH OF	)	
PLANNED PARENTHOOD	)	
GREAT PLAINS, et. al.	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:16-CV-4313 HFS
	)	
PETER LYSKOWSKI, et. al.	)	
	)	
Defendants.	)	

**JASPER COUNTY PROSECUTING ATTORNEY ANSWER TO COMPLAINT**

COMES NOW, Defendant, Jasper County Prosecuting Attorney Theresa L. Kenney, by and through her attorney of record, Norman E. Rouse, and for her answer to Plaintiff’s petition states as follows:

1. Regarding paragraphs 1, 20, 21, 22, 24, 28, and 31 of that complaint, the complaint and the statutes, cases, and regulations plaintiffs mention in those paragraphs speak for themselves, and otherwise, Defendant Kenney lacks knowledge or information sufficient to form a belief about the truth of those paragraphs’ allegations and so denies those allegations.
2. She admits the allegations of paragraphs 5, 6, 11, 12, 13, 14, 15, and 16.
3. She lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraphs 2, 3, 4, 7, 8, 9, 10, 17, 18, 19, 23, 25, 26, 27, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 51, 53, 55, and 57, and so denies those allegations.
4. Regarding paragraphs 50, 52, 54, and 56, she adopts, re-alleges, and incorporates herein by reference her answers to paragraphs 1 through 49 of plaintiffs’ complaint as if those paragraphs had been set out here at length.

### **AFFIRMATIVE DEFENSE**

5. The Jasper County Prosecuting Attorney is a state official shielded by the doctrines of sovereign immunity, official immunity and the public duty doctrine.

6. The complaint fails to state a claim upon which a relief can be granted and should be dismissed as to Theresa L. Kenney because there is no case ripe for this Court's review and there is no justiciable case or controversy between any plaintiff and Defendant Kenney because there is no pending or threatened criminal prosecution or other proceeding to enforce the statutes mentioned in the complaint.

7. Plaintiff lacks standing to bring this action against Theresa L. Kenney as there is no case or controversy pending or threatened upon which Plaintiff may invoke standing to bring this action against Defendant Kenney and therefore this action should be dismissed as to this Defendant.

8. Declaratory and injunctive relief should be denied with respect to Defendant Kenney as a Court of equity should not enjoin the prosecution of a crime, and in any event, the Plaintiff has not plead and cannot prove that any prosecution in the County of Jasper is threatened or pending with respect to the statutes complained of by Plaintiff in its complaint.

9. The Jasper County Prosecuting Attorney requests this Court to dismiss the Jasper County Prosecuting Attorney from this action in that defending the constitutionality of the statutes in the abstract when there is no case or controversy ripe for judicial review initiated by or against the Prosecuting Attorney is not one of the enumerated duties of the Prosecuting Attorney of Jasper County.

10. Given Theresa L. Kenney, as Prosecuting Attorney of Jasper County's relatively insignificant role in this litigation, she asks that none of Plaintiffs' costs or attorney fees be taxed

to her or Jasper County.

WHEREFORE, having fully answered Plaintiffs' complaint, Defendant, Theresa L. Kenney, Prosecuting Attorney of Jasper County, prays the Court dismiss the complaint against her and deny the relief requested by Plaintiff as to Defendant Kenney, to allow her, her costs incurred, and to enter such other orders and relief as the Court deems just and proper.

Collins, Webster & Rouse, P.C.

/s/Norman E. Rouse

Norman E. Rouse No. 27439

5957 E. 20th Street

Joplin, MO 64801

(417) 782-2222

(417) 782-1003 – Fax

[roberta@cwrcave.com](mailto:roberta@cwrcave.com)

ATTORNEYS FOR DEFENDANT

JASPER COUNTY

PROSECUTING ATTORNEY

#### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was sent, by Electronic Service, to the parties who request notification and by first class mail to those named in the complaint, but who have not yet requested service through the Court's CM/ECF this January 27, 2017.

/s/Norman E. Rouse

NORMAN E. ROUSE