

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

)	
ROCHELLE GARZA, as guardian ad litem to)	
unaccompanied minor J.D., on behalf of)	
herself and others similarly situated,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 17-cv-02122 (TSC)
)	
ERIC D. HARGAN, <i>et al.</i> ,)	
)	
Defendants.)	
)	

AMENDED TEMPORARY RESTRAINING ORDER

Upon consideration of Plaintiff’s Emergency Motion to Amend the Temporary Restraining Order issued by this court on October 18, 2017 and the entire record in this case;

For substantially the same reasons given in Judge Millett’s dissenting statement issued on October 20, 2017, and substantially adopted by the Court of Appeals in its Order of October 24, it appears to the Court that: (1) Plaintiff is likely to succeed on the merits of her action; (2) if Defendants are not immediately restrained from preventing her transportation to an abortion facility or otherwise interfering with or obstructing her access to an abortion—including by further forcing her to disclose her abortion decision against her will or disclosing her decision themselves, forcing her to obtain pre- and/or post-abortion counseling from an anti-abortion entity, and/or retaliating against her for her abortion decision—Plaintiff J.D. will suffer irreparable injury in the form of, at a minimum, increased risk to her health, and perhaps the permanent inability to obtain a desired abortion to which she is legally entitled; (3) the Defendants will not be harmed if such an order is issued; and (4) the public interest favors the entry of such an order. It is, therefore,

ORDERED that Plaintiff's Emergency Motion to Amend the Temporary Restraining Order is hereby GRANTED, and that Defendants Eric Hargan, Steven Wagner, and Scott Lloyd (along with their respective successors in office, officers, agents, servants, employees, attorneys, and anyone acting in concert with them) are, for fourteen days from the date shown below, hereby:

1. Required to transport J.D.—or allow J.D. to be transported by either her guardian or attorney ad litem—**promptly and without delay**, on such dates, including today, and to such Texas abortion provider as shall be specified by J.D.'s guardian ad litem or attorney ad litem, in order to obtain the counseling required by state law and to obtain the abortion procedure, in accordance with the abortion providers' availability and any medical requirements. If transportation to the nearest abortion provider requires J.D. to travel past a border patrol checkpoint, Defendants are restrained from interfering with her ability to do so and are ordered to provide any documentation necessary for her to do so;
2. Temporarily restrained from interfering with or obstructing J.D.'s access to abortion counseling or an abortion;
3. Temporarily restrained from further forcing J.D. to reveal her abortion decision to anyone, or revealing it to anyone themselves;
4. Temporarily restrained from retaliating against J.D. based on her decision to have an abortion;
5. Temporarily restrained from retaliating or threatening to retaliate against the contractor that operates the shelter where J.D. currently resides for any actions it has taken or may take in facilitating J.D.'s ability to access abortion counseling and an abortion.

It is further ORDERED that Plaintiff shall not be required to furnish security for costs. Failure to comply with the terms of this Order may result in a finding of contempt.

Date: October 24, 2017

Tanya S. Chutkan
TANYA S. CHUTKAN
United States District Judge

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**FINDINGS OF FACT IN SUPPORT OF
AMENDED TEMPORARY RESTRAINING ORDER**

The court makes the following findings of fact in support of its Amended Temporary Restraining Order (ECF No. 29):

1. Plaintiff J.D. is a 17 year-old unaccompanied minor who entered the United States without legal documentation in September 2017. (Decl. of J.D., ECF No. 3-3).
2. J.D. was detained at the U.S. border, and was remanded to a shelter in Texas under a cooperative agreement with the Office of Refugee Resettlement (ORR) on September 8, 2017. (Decl. of Jonathan White, ECF No. 25-1).
3. After entering the U.S., J.D. received a medical evaluation and confirmation that she was pregnant. (Decl. of Jonathan White, ECF No. 25-1).
4. J.D. chose to terminate her pregnancy. Pursuant to Texas law, and with the assistance of an appointed guardian ad litem and attorney ad litem, she sought a judicial bypass of Texas’s parental notification and consent requirements, which she received on September 25, 2017.

5. In March 2017, the ORR announced that all federally funded shelters are prohibited from taking “any action that facilitates” abortion access for unaccompanied minors absent “direction and approval from the Director of the ORR.” (ECF No. 3–5 at 2).
6. J.D. sought to obtain the state-mandated counseling and the abortion procedure on September 28, 2017 and September 29, 2017. Pursuant to its new policy enacted in March 2017, Defendants refused, and have continued to refuse to transport her to the facility and refused to allow anyone else to transport her to the facility. (ECF No. 3-4).
7. Although Defendants have taken steps to dissuade J.D. from having an abortion, including requiring her to obtain counseling from a religiously affiliated crisis pregnancy center and view a sonogram, J.D. remains steadfast in her desire to terminate her pregnancy. (Decl. of J.D., ECF No. 3-3).
8. Defendants maintain that J.D. may obtain an abortion only if (1) an individual indicates his or her willingness to serve as a sponsor for J.D., qualifies for that position under applicable legal requirements, completes the administrative review process, and is approved by ORR, or (2) J.D. voluntarily returns to her home country, where Defendants concede abortion is illegal.
9. The process of identifying, vetting, and approving sponsors is lengthy and complex, involving multiple steps that can take weeks or months to complete. The process typically involves completion and submission of an application, requirements for extensive documentation of prior relationship to the minor and/or the minor’s family, background checks, home visits, and multiple stages of administrative review. The minor has no control over the sponsorship process, and ultimately the decision whether to

approve a particular sponsor rests with ORR. (Decl. of Robert Carey, ECF No. 23-1 at 2, 4, 5–7).

10. J.D. has obtained private funding to pay for the abortion, and her guardian and/or attorney ad litem have agreed to transport her to the abortion facility.
11. Texas law requires that an individual seeking an abortion must undergo counseling at least 24 hours in advance of the procedure by the same doctor who will perform the procedure. Oral Arg. 1:13:45–1:15:10.
12. J.D. first sought to terminate her pregnancy in late September, when she was approximately 11 weeks pregnant. She received judicial authorization on September 25, 2017. She is now approximately 15 weeks pregnant. Under Texas law, abortions are illegal after 20 weeks, and some doctors refuse to perform an abortion after more than 15.6 weeks. Oral Arg. 1:13:45–1:15:10.

Date: October 24, 2017

Tanya S. Chutkan

TANYA S. CHUTKAN
United States District Judge