IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

UNITED STATES OF AMERICA,	
v.	**CR. NO. 3:23-00117-JFA**
STEVEN CLARK LEFEMINE,	**MOTION FOR RELEASE PENDING APPEAL**
DEFENDANT.	**JUDGE ANDERSON**

MOTION FOR RELEASE PENDING APPEAL

COMES NOW the Defendant, Steven Clark Lefemine, and respectfully asks this Court to stay his sentence pending resolution of his appeal, and in support thereof would show the Court the following, including by reference hereat motions and arguments made in the eleven previous filings listed in Exhibit A, beginning with the Motion to Dismiss (ECF No. 63, Filed Jan 18, 2024):

A defendant may be released pending an appeal of a criminal conviction if the judicial officer finds the person satisfies the requisites of 18 U.S.C. § 3143(b). Including, if the judicial officer finds the person is not likely to flee or pose a danger to the safety of another person or the community if released under 18 U.S.C. § 3142(b) or (c), by clear and convincing evidence. And, if the judicial officer finds the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in reversal, an order for new trial, a sentence that does not include a term of imprisonment, or a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process. *United States v. Chilingirian*, 280 F.3d 704, 709 (6th Cir. 2002); *United States v. Vance,* 851 F.2d 166 (6th Cir. 1988); *United States v. Kelsey,* 3:21-cr-00264 (M.D. Tenn. Sep. 26, 2003).

If the judicial officer makes such findings, such judicial officer shall order the release of the person in accordance with 18 U.S.C. § 3142(b) or (c). If the defendant is released pending appeal in accordance with the statute, the court is also required to stay any sentence of imprisonment. Fed. R. Crim. P. 38(b)(1).

Steven Lefemine poses no risk of flight or danger.

Steven Lefemine has been a resident of South Carolina for over 40 years, since August 1982. In this FACE case, he has appeared for each and every one of the numerous court hearings since first

summoned to appear by certified mail to answer to the Indictment on March 7, 2023, including through the most recent appearance for the Sentencing Hearing July 31, 2024. Beginning with the filing of the Motion to Dismiss (ECF No. 63, Filed Jan 18, 2024), and particularly after the Defendant was granted his request to proceed *pro se* on February 6, 2024, numerous court filings (e.g., Motion for Allowance of Defense of Necessity, ECF No. 77, Filed Feb 13, 2024), have been made (See Exhibit A), placing documentation on the record for consideration not only by the District Court, but in anticipation of appellate review. Lefemine filed a Notice of Appeal on August 9, 2024, which was docketed August 12 (USCA4 Appeal: 24-4419). In short, Defendant is seriously invested in pursuing the appeal at the Fourth Circuit Court of Appeals. For Lefemine to become a flight risk would be both counterintuitive and counterproductive, and could conceivably risk jeopardizing his objective of pursuing the appeal.

Here the Defendant was not convicted of any violent crime. In fact, Columbia Chief of Police William "Skip" Holbrook, in an FBI interview, reportedly described Lefemine's conduct during the arrest thusly: "Chief Holbrook stated that Lefemine used "passive resistance" and was non-violent." Furthermore, Lefemine's peaceful/nonviolent character/long-term conduct as a pro-life activist is addressed in all three of the written character witness statements which were filed with the court before the Sentencing Hearing July 31:

1) Character witness statement at Exhibit M of ECF No. 126 (Filed June 27, 2024) – Steve Fitschen, Esq. – "I write to testify to an important aspect of the character of Steven C. Lefemine as a pro-life advocate, namely his commitment to non-violence."

2) Character witness statement filed as ECF No. 130 (Filed 7/12/2024) – Coleman Boyd, M.D. - "He (Steven Lefemine) is a peaceful, nonviolent man who pours his life into loving and caring for others from the elderly to the preborn."

3) Character witness statement filed as ECF No. 141 (Filed 7/25/2024) – - Chris Coatney - "… Steve's peaceful intervention may be seen not just as an attempt to save the lives of children …"

The factors above taken in combination indicate there is clear and convincing evidence that Steven Lefemine is not a flight risk; nor does he pose a risk of danger to others or the community if his sentence is stayed pending appeal.

Steven Lefemine raises several substantial questions on appeal.

An appeal raises a substantial question when it presents a "close question or one that could

go either way" and that the question "is so integral to the merits of the conviction that it is more probable than not that reversal or a new trial will occur if the question is decided in the defendant's favor." *United States v. Kincaid,* 805 Fed.Appx. 394, 395 (6th Cir. 2020) (quoting *United States v. Pollard,* 778 F.2d 1177, 1182 (6th Cir. 1985)). **A substantial question is "one which is either novel, which has not been decided by controlling precedent,** or which is fairly doubtful." *United States v. Roth,* 642 F. Supp. 2d 796, 798 (E.D. Tenn. 2009) (quoting *United States v. Miller,* 753 F.2d 19, 23 (3rd Cir. 1985)) [emphasis added]. The trial court need not believe that the appeal will be decided in the defendant's favor, rather it must be a question that could be resolved either way on appeal. *Pollard,* 778 F.2d at 1182.

In determining whether a question on appeal raises a substantial question of law or fact, "a judge must essentially evaluate the difficulty of the question he previously decided." *United States v. Sutherlin,* 84 F. App'x 630, 631 (6th Cir. 2003) (quoting *United States v. Shoffner,* 791 F.2d 586, 589 (7th Cir. 1986)). A trial court is not required to find that it committed reversible error in order to find that a defendant raises a substantial question on appeal. *United States v. Pollard,* 778 F.2d 1177, 1181 (6th Cir. 1985).

To succeed under 18 U.S.C. § 3143(b), the substantial question presented by a defendant must also be likely to result in one of several favorable outcomes: reversal, an order for a new trial, a sentence that does not include a term of imprisonment, or a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process.

Steven Lefemine raises several substantial questions on appeal. One is whether if ***after*** the *Dobbs v. Jackson* Women's Health Organization ruling/Opinion, 597 U.S. 215 (6/24/2022), the FACE Act itself is constitutional. This has yet to be adjudicated by any Circuit Court of Appeals in the United States. So, essentially by definition, raising the issue of the constitutionality of the FACE law post-*Dobbs* when that pivotal matter has yet to be adjudicated by any Circuit Court of Appeals in the United States, presents a substantial question, which is **"one which is either novel, which has not been decided by controlling precedent,** or which is fairly doubtful." *United States v. Roth,* 642 F. Supp. 2d 796, 798 (E.D. Tenn. 2009) (quoting *United States v. Miller,* 753 F.2d 19, 23 (3rd Cir. 1985)) [emphasis added]. The constitutionality of the FACE Act post-*Dobbs* was challenged in the Defendant's Motion to Dismiss, however the Court denied the Defendant's Motion to Dismiss, to which the Defendant has objected, preserving the matter

for consideration by the appellate court, which the Defendant requests.

[See Defendant's **MOTION TO DISMISS** (ECF No. 63, Filed Jan 18, 2024)]

[See **DEFENDANT'S REPLY TO GOVERNMENT'S RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS** (ECF No. 76, Filed Feb 9, 2024)]

After the 2022 *Dobbs* ruling and Opinion, there is no longer a federal constitutional "right" to "abortion" (in truth, there never was). The legislative history of the FACE Act (S.636 introduced March 23, 1993) indicates that its primary purpose was to protect access to the perpetration of "abortion".

The *Dobbs* Opinion states: "We hold that *Roe* and *Casey* must be overruled. The Constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision, including the one on which the defenders of *Roe* and *Casey* now chiefly rely – the Due Process Clause of the Fourteenth Amendment." 597 U.S. 215, 231

From the *Dobbs* Syllabus, *"Held:* The Constitution does not confer a right to abortion; *Roe* and *Casey* are overruled; and the authority to regulate abortion is returned to the people and their elected representatives." 597 U.S. 215

While *Dobbs* does not ban "abortion" in the United States, neither does it prohibit "abortion" from being banned in any or all States, or federally in the United States; but rather *Dobbs* allows "abortion" to be banned in any or all States, and federally in the United States. In fact, at the present time, near-total "abortion" bans (of surgical and "abortion" pill "abortions") are in effect in 14 States: AL, ARK, ID, IND, KY, LA, MISS, MO, ND, OK, SD, TN, TX, and WV.

Are these 14 States in violation of the F.A.C.E. Act for interfering with "abortion" by largely criminalizing these types of "abortions" ? Is the DOJ going to indict officials in these 14 States ?

How can it be a federal crime (18 U.S.C. Section 248) to interfere with a practice (i.e., "abortion"), which itself may be criminalized, and is in fact criminalized to a large degree by 14 States ?

How can there be a federal crime specifically criminalizing conduct that interferes with something that is itself specifically criminalized [and therefore interfered with] by 14 States (i.e., "abortion") ?

How can there be a federal crime which specifically prohibits interfering with something that is not only not a federal constitutional right, i.e., "abortion", but which may be criminalized by all 50 States, and is in fact presently criminalized to a large degree in 14 States ?

How can it be constitutional to make it a federal crime to interfere with "abortion" when "abortion" itself can be criminalized, requiring it to be interfered with by the States which do so ?

[See Defendant's **CORRECTED PRESENTENCING MEMORANDUM** (ECF No. 129, Filed July 10, 2024)]

It is undisputed that the *Dobbs* decision made sweeping changes in the legal landscape. The Supreme Court in *Dobbs* adopted a new rule of substantive Constitutional law; and the Supreme Court

has repeatedly held that new rules of substantive Constitutional law are to be applied retroactively. Many of the implications of *Dobbs* have not been addressed by the Supreme Court or a Court of Appeals. The Court of Appeals or the Supreme Court may decide the issue differently than this Court did. On appeal, this issue of the constitutionality of the FACE Act may be decided in Steven Lefemine's favor.

If the appellate court found the FACE Act unconstitutional, Steven Lefemine's conviction would be reversed and charges against him dismissed.

A second substantial question Steven Lefemine raises on appeal is the denial by the Court of the Defendant's Motion for Allowance of Defense of Necessity, to which the Defendant has objected, preserving the matter for consideration by the appellate court, which the Defendant requests.

[See Defendant's **MOTION FOR ALLOWANCE OF DEFENSE OF NECESSITY** (ECF No. 77, Filed Feb 13, 2024)]

[See **DEFENDANT'S REPLY TO GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION FOR ALLOWANCE OF DEFENSE OF NECESSITY** (ECF No. 98, Filed March 4, 2024)]

The propriety and justice exercised in allowing a Defense of Necessity herein is made plain by the acceptance of these fundamental truths, rooted in Scripture, America's historical jurisprudence, and scientific facts:

The rightful, just basis for all human laws is the Word of God: God's Law in Nature and God's Law in Revelation.

- **The rightful, just basis for all human laws is God's Law**

- **Human life begins at conception; A human being exists at conception**

- **Every human being has a Creator God-given, inherent, unalienable right to life as a natural "person" which should rightly be recognized in law**

[See Defendant's **CORRECTED PRESENTENCING MEMORANDUM** (ECF No. 129, Filed July 10, 2024)]

[See Defendant's **Attachment #1: SUPPORTING DOCUMENTS EXHIBITS A – F** and **Attachment #2: SUPPORTING DOCUMENTS EXHIBITS G – M** [to ECF No. 129] (ECF No. 126, Filed June 27, 2024)]

A third substantial question Steven Lefemine's appeal raises is the denial by the Court of the Defendant's Petition to ("Motion for") the Court to Acknowledge the Declaration of Independence

Inherently Recognizes the Personhood of All Men, to which the Defendant objected, preserving the matter for consideration by the appellate court, which the Defendant requests.

[See Defendant's **PETITION TO THE COURT TO ACKNOWLEDGE THE DECLARATION OF INDEPENDENCE INHERENTLY RECOGNIZES THE PERSONHOOD OF ALL MEN** (ECF No. 79, Filed Feb 14, 2024)]

A fourth substantial question Steven Lefemine's appeal raises is whether the application of 18 U.S.C. § 248 in this case is an abuse of prosecutorial discretion by the Government. The Office of the U.S. Attorney in South Carolina chose to use the FACE Act to bring an indictment against **one sole individual** engaged in a nonviolent "sit-in" outside an external door entrance. This abuse of use of the FACE Act is not consistent with the Congressional Findings used to justify passing the FACE Act as introduced in the United States Senate on March 23, 1993, and amounts to an abuse of prosecutorial discretion. The Defendant had already been charged by the Columbia (SC) Police with violating the state trespass statute S.C. Code § 16-11-620 on November 15, 2022.

The legislative history proves that part of the justification for the need for federal FACE legislation was to handle mass protests.

In Section 2 of the bill, as introduced March 23, 1993, Congressional Statement of Findings and Purpose, for example, S.636 recited:

Congressional Record – Senate for March 23, 1993 (Volume 139, Part 5 – Senate page 6094)
https://www.congress.gov/103/crecb/1993/03/23/GPO-CRECB-1993-pt5-1-2.pdf

(a) FINDINGS. – Congress finds that—

(1) medical clinics and other facilities offering abortion services have been targeted in recent years by **an interstate campaign of violence** and obstruction aimed at closing the facilities or physically blocking ingress to them, and intimidating those seeking to obtain or provide abortion services;

* * *

(4) the methods used to deny women access to these services include blockades of facility entrances; **invasions and occupations of the premises; vandalism and destruction of property in and around the facility; bombings, arson, and murder;** and other acts of force and threats of force;

(5) those engaging in such tactics **frequently trample police lines and barricades and overwhelm State and local law enforcement authorities and courts** and their ability to restrain and enjoin unlawful conduct and prosecute those who have violated the law;

(6) such conduct operates to infringe upon women's ability to exercise full enjoyment of rights secured to them by Federal and State law, both statutory and constitutional, and burdens interstate commerce, including by interfering with business activities of medical clinics involved in interstate commerce and by forcing women to travel from States where their access to reproductive health services is obstructed to other States; (emphasis added).

In the instant case, Defendant made an appointment and met with the Columbia Chief of Police on November 14, 2022 to inform him of his intentions, although no date was given. On the day of the nonviolent interposition (November 15, 2022), the Defendant was essentially outnumbered by the police presence 3:1, one officer was even released from the scene by a supervisor because his presence was apparently not needed. The Defendant was charged with trespass on the scene and released. The federal FACE Act charge and indictment that was brought February 22, 2023 against one sole individual is an overreach of the exercise of federal authority and power and is an abuse of prosecutorial discretion.

Interposition at Planned Parenthood Columbia, SC
Tuesday, November 15, 2022
(Video - http://christianlifeandliberty.net/IMG_8795.mp4)

(Video - http://christianlifeandliberty.net/VID_20221115_075014577.mp4)

This matter of the abuse of prosecutorial discretion was addressed in the Defendant's Motion to Dismiss, however the Court denied the Defendant's Motion to Dismiss, to which the Defendant has objected, preserving the matter for consideration by the appellate court, which the Defendant requests.

[See Defendant's **MOTION TO DISMISS** (ECF No. 63, Filed Jan 18, 2024)]

[See **DEFENDANT'S REPLY TO GOVERNMENT'S RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS** (ECF No. 76, Filed Feb 9, 2024)]

A fifth substantial question Steven Lefemine's appeal raises is whether the indictment should have been dismissed because the Government is engaged in selective prosecution for viewpoint discrimination. Such prosecution is Constitutionally prohibited. This case is one of several that has been instituted by the pro-"abortion" Biden Administration after widely reported statements from the Administration and Department of Justice evidencing their intent to selectively prosecute pro-life

activists. Recent reports reveal that 97% of FACE Act prosecutions since 1994 have been against pro-lifers. Out of 211 FACE Act cases, only six were used to prosecute pro-abortionists; whereas 205 FACE Act cases (97%) were used to prosecute pro-lifers. THIS IS NOT JUSTICE. **This is prosecution for viewpoint discrimination and it is Constitutionally prohibited.**

[See Exhibit B]

This next point is not a question which raises a substantial question of law or fact, but which does point out a violation of Department of Justice policy regarding dual and successive prosecutions, and should be considered in the context of the fourth and fifth substantial questions above, and the overall unjust administration of "justice" by the Government in this case.

Namely, the failure of the Government (prosecuting attorney) to correctly interpret and apply the United States Attorney's Justice Manual's **9-2.031 - Dual and Successive Prosecution Policy ("Petite Policy")** to the present case.

This Department of Justice (DOJ) policy states within Paragraph 1. Statement of Policy:

> "This policy precludes the initiation or continuation of a federal prosecution, following a prior state or federal prosecution based on substantially the same act(s) or transaction(s) unless three substantive prerequisites are satisfied: ... second, the prior prosecution must have left that [substantial federal] interest demonstrably unvindicated; ..."

Justice Manual

9-2.000 - Authority Of The U.S. Attorney In Criminal Division Matters/Prior Approvals

9-2.031 - Dual and Successive Prosecution Policy ("Petite Policy")

United States Department of Justice
https://www.justice.gov/jm/jm-9-2000-authority-us-attorney-criminal-division-mattersprior-approvals#9-2.031

The continued federal prosecution by the Office of the U.S. Attorney in South Carolina after the January 24, 2024 trespass conviction in Columbia (SC) Municipal Court constitutes a dual and successive prosecution. On November 15, 2022, the Defendant was charged with violating the state trespass statute S.C. Code § 16-11-620. At the conclusion of a jury trial in Columbia (SC) Municipal Court on January 24, 2024, Lefemine was convicted and sentenced to a fine of $465 (paid).

The **Dual and Successive Prosecution Policy** states within Paragraph 4.:

4. Substantive Prerequisites for Approval of a Prosecution Governed by this Policy.
[excerpts, emphasis added]

"As previously stated there are three substantive prerequisites that must be met before approval will be granted for the initiation **or a continuation** of a prosecution governed by this policy."

"The second substantive prerequisite is that the prior prosecution must have left that substantial federal interest demonstrably unvindicated. **In general, the Department will presume that a prior prosecution, regardless of result, has vindicated the relevant federal interest**. That presumption, however, may be overcome when there are factors suggesting an unvindicated federal interest.

So after the state trespass conviction on January 24, 2024, **the federal FACE Act prosecution should have been discontinued**, in accordance with the general application of the DOJ's **Dual and Successive Prosecution Policy.**

Yet, in the Government's Sentencing Memorandum (ECF No. 131, Filed July 12, 2024), the Government (prosecuting attorney) incorrectly states:

> "As a dispositive matter, the Petite Policy does not apply to Lefemine's case because his federal charges were filed *prior* to his conviction in state court. Therefore, the Petite Policy was not triggered." [emphasis in original]

This interpretation of the DOJ **Dual and Successive Prosecution Policy** is **FALSE**.

The Government's false claim to a "dispositive matter" may readily be disposed of by referring to Paragraph 1. **Statement of Policy:** ; and Paragraph 2. **Types of Prosecution to which This Policy Applies:** ; and Paragraph 3. **Stages of Prosecution at which Policy Applies:** ; and Paragraph 4. (see above) **Substantive Prerequisites for Approval of a Prosecution Governed by this Policy.** of the Department of Justice's **Dual and Successive Prosecution Policy.** The application of the **Dual and Successive Prosecution Policy** is **not** controlled by whether or not the federal charges are **filed** prior to a defendant's conviction in state (or federal) court, but whether or not **the federal trial** has **commenced** prior to the defendant's conviction in state (or federal) court.

In this case, the state trespass conviction occurred January 24, 2024 **before** the commencement of the federal FACE trial on February 23, 2024 (continued to March 11, 2024 after the Court learned discovery materials had not been fully produced to the Defendant), and therefore in accordance with the general provision of the DOJ **Dual and Successive Prosecution Policy,** the federal FACE prosecution should have been **discontinued**. However, it was not.

The Government's erroneous statement in the Government's Sentencing Memorandum (p. 7) notwithstanding, the Government clearly violated the general provision of the Department of Justice's

own **Dual and Successive Prosecution Policy,** both procedurally and substantively by the continuation of this federal FACE case to trial on February 23, 2024 (continued to March 11, 2024), after a prior conviction in Columbia (SC) Municipal Court on January 24, 2024 resulting in a sentence of a $465 fine.

In view of the information presented in Paragraph 6. **Reservation and Superseding Effect: for Internal Guidance Only, No Substantive or Procedural Rights Created.,** Defendant is not seeking for the Court to enforce the Justice Department's **Dual and Successive Prosecution Policy ("Petite Policy")** by means of dismissing the federal FACE case. Moving for dismissal of the federal FACE case was the responsibility of the prosecution, which it failed to fulfill, after the January 24, 2024 conviction of Defendant in Columbia (SC) Municipal Court resulting in a sentence of a $465 fine. However, Defendant does request the Court to consider the conduct of the Government (U.S. Attorney's Office in South Carolina) in light and in the context of the fourth and fifth substantial questions above, and the overall unjust administration of "justice" by the Government in this case.

[See Defendant's **MOTION FOR COURT'S CONSIDERATION OF COMPLETE MITIGATION OF SENTENCE AS PROSECUTION AND CONVICTION OF DEFENDANT VIOLATES JUSTICE DEPARTMENT'S DUAL AND SUCCESSIVE PROSECUTION POLICY ("PETITE POLICY") U.S. ATTORNEY'S JUSTICE MANUAL, 9-2.031**
(ECF No. 128, Filed July 8, 2024)]

[See Defendant's **DEFENDANT MEMORANDUM IN REPLY TO PORTIONS OF GOVERNMENT'S SENTENCING MEMORANDUM**
(ECF No. 140, Filed July 25, 2024)]

All this evidence may well be viewed significantly different by a court of appeals than is/was viewed by this Court. If the appeal reversed and dismissed the indictment, Steven Lefemine's conviction would be overturned and the charges against him dismissed.

CONCLUSION

Steven Lefemine was not convicted of a crime of violence. He has shown by clear and convincing evidence that he is not a flight risk; neither is he a danger to the safety to the community. Also, Steven Lefemine's appeal raises several substantial questions. The effect of *Dobbs v. Jackson Women's Health Organization* on the legal landscape is still being debated and decided by the federal courts. It is reasonable to conclude that the court of appeals may decide one or more of these several substantial questions differently than did this Court.

In conclusion, Steven Lefemine respectfully requests that this Court grant this Motion and stay the Defendant's sentence pending his appeal, and for such other and further relief to which he may be entitled.

Respectfully submitted,

/s/ Steven C. Lefemine

Steven C. Lefemine
Defendant
PO Box 12222, Columbia, SC 29211
(803) 760-6306 * CP@spiritcom.net

Columbia, South Carolina
September 3, 2024

Exhibit A

1) MOTION TO DISMISS
ECF No. 63 (Filed Jan 18, 2024)

2) DEFENDANT'S REPLY TO GOVERNMENT'S RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS
ECF No. 76 (Filed Feb 9, 2024)

3) MOTION FOR ALLOWANCE OF DEFENSE OF NECESSITY
ECF No. 77 (Filed Feb 13, 2024)

4) PETITION TO THE COURT TO ACKNOWLEDGE THE DECLARATION OF INDEPENDENCE INHERENTLY RECOGNIZES THE PERSONHOOD OF ALL MEN
ECF No. 79 (Filed Feb 14, 2024)

5) DEFENDANT'S REPLY TO GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION FOR ALLOWANCE OF DEFENSE OF NECESSITY
ECF No. 98 (Filed March 4, 2024)

6) DEFENDANT'S CORRECTED AFFIDAVIT IN SUPPORT
ECF No. 99 (Filed March 4, 2024)

7) CORRECTED PRESENTENCING MEMORANDUM
ECF No. 129 (Filed July 10, 2024)

8) Attachment #1: SUPPORTING DOCUMENTS EXHIBITS A – F
Attachment #2: SUPPORTING DOCUMENTS EXHIBITS G – M
[to ECF No. 129]
ECF No. 126 (Filed June 27, 2024)

9) MOTION FOR COURT'S CONSIDERATION OF COMPLETE MITIGATION OF SENTENCE AS PROSECUTION AND CONVICTION OF DEFENDANT VIOLATES JUSTICE DEPARTMENT'S DUAL AND SUCCESSIVE PROSECUTION POLICY ("PETITE POLICY") U.S. ATTORNEY'S JUSTICE MANUAL, 9-2.031
ECF No. 128 (Filed July 8, 2024)

10) DEFENDANT MEMORANDUM IN REPLY TO PORTIONS OF GOVERNMENT'S SENTENCING MEMORANDUM
ECF No. 140 (Filed July 25, 2024)

11) MOTION FOR CONSENT OF SENTENCING JUDGE TO ALLOW PRO SE DEFENDANT'S PUBLIC REDISCLOSURE OF PAGES 8, 9 & 10 OF PRESENTENCE INVESTIGATION REPORT (THE DEFENDANT'S CRIMINAL HISTORY)
ECF No. 150 (Filed August 9, 2024)

Exhibit B

[Video]

'[U.S.] Rep. Chip Roy (R-TX) Reveals Data His Office Uncovered about the Biden Administration'

Washington Watch (hosted by former United States House Representative Jody Hice (R-GA)
Aug 5, 2024

https://youtu.be/oEK2yCAkoQI

'Chip Roy, U.S. Representative for the 21st District of Texas, reveals data his office uncovered demonstrating the Biden administration's weaponization of the Department of Justice against pro-life activists.' [emphasis added]

97% of FACE Act Prosecutions Are against Pro-Lifers: 'It's the Destruction of the Rule of Law'

The Washington Stand
August 6, 2024

https://washingtonstand.com/news/97-of-face-act-prosecutions-are-against-prolifers-its-the-destruction-of-the-rule-of-law

Excerpts:

For the last couple of years, the Biden-Harris administration's Department of Justice (DOJ) has been accused of misapplying the Freedom of Access to Clinic Entrances (FACE) Act to target pro-lifers. The law was originally passed in 1994 with the intention of allowing the federal government to prosecute anyone who blocks both abortion facilities and pro-life pregnancy resource centers. However, over the years, people such as Rep. Chip Roy (R-Texas) have exposed the reality that an alarmingly high number of FACE Act prosecutions have been filed against people who advocate for the unborn.

In 2022, 11 pro-life individuals were charged with violating the FACE Act while "peacefully praying and singing hymns while standing and sitting along the walls of a hallway leading to the door of" an abortion facility. Four of the defendants were scheduled to face trials for misdemeanors, while six others were convicted, facing "up to a maximum of 10 and a half years in prison, three years of supervised release, and fines of up to $260,000." In light of these realities, Roy introduced a bill to repeal the FACE Act in 2023. But as time goes on, the Texas congressman has noted, the statistics only continue to reveal using the FACE Act "has become a tactic of those who want a weaponized justice system."

Not only were six more pro-life activists convicted for violating the FACE Act during a peaceful protest in January, but as guest host and former Congressman Jody Hice pointed out on Monday's episode of "Washington Watch," Roy's office has uncovered data that reveals 97% of FACE Act prosecutions since 1994 have been against pro-lifers. Or put another way, out of 211 cases, only six were used to prosecute pro-abortionists. "[T]he statistics don't lie," Hice stated, and "this data ... is stunning, shocking, [and] maddening."

Roy, who joined the discussion, emphasized, "I think it points out very clearly that" the FACE Act is "being used as a weapon" against pro-life Americans. Each time concerns were raised about the issue, he added, they were dismissed. But "the fact is," Roy observed, "we've gotten this very specific set of data that ... 97% of these cases have been used against pro-life activists." Hice added, "It just sounds to me that this is ... like prosecutions on steroids. I mean, this is what a weaponized government looks like, isn't it?"

Continued...

Note:

United States House Representative **Chip Roy (R-TX)** is the present Chairman of The Subcommittee on the Constitution and Limited Government, of the United States House of Representatives Judiciary Committee (https://judiciary.house.gov/about/subcommittees), and is primary sponsor of H.R.5577 - FACE Act Repeal Act of 2023 in the 118th Congress (2023-2024) (https://www.congress.gov/bill/118th-congress/house-bill/5577) **to completely repeal** Section 248 of title 18, United States Code (https://www.congress.gov/bill/118th-congress/house-bill/5577/text), the unjust FACE Act, in its entirety. In the United States Senate, S.3017 (https://www.congress.gov/bill/118th-congress/senate-bill/3017) has likewise been filed **to completely repeal** Section 248 of title 18, United States Code (https://www.congress.gov/bill/118th-congress/senate-bill/3017/text), the unjust FACE Act, in its entirety. H.R.5577 has 44 co-sponsors of sitting House members; S.3017 has five Senate co-sponsors.

[See **DEFENDANT'S REPLY TO GOVERNMENT'S RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS** (ECF No. 76, Pages 3, 4, 5 of 5; and Exhibit C (Pages 20, 21 of 23); and Exhibit D (Pages 22, 23 of 23), Filed Feb 9, 2024)]

Re: Biden FBI/DOJ Disproportionate Use (Weaponization) of FACE Prosecutions Against Pro-Life Advocates

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'EXCLUSIVE: Congressman Calls FBI Director's Bluff, Demands Evidence of Investigations Into Pro-Abortion Violence'

'[U.S. Rep.] Chip Roy [R-TX] Calls FBI's Bluff on Pro-Abortion Violence'

Daily Signal
Aug 19, 2024

https://www.dailysignal.com/2024/08/19/exclusive-congressman-calls-fbi-directors-bluff-demands-evidence-investigations-pro-abortion-violence/

Excerpts:

Roy, a Texas Republican, reminded [FBI Director] Wray in a Monday letter that since January 2021, the Justice Department's Civil Rights Division has charged 24 Freedom of Access to Clinic Entrances (FACE) Act cases against 55 defendants, according to DOJ data first reported by The Daily Caller.

In the letter, first obtained by The Daily Signal, Roy emphasized that only two of those 24 cases originated from attacks on pregnancy resource centers. And those two cases involved only five defendants.

Continued...

President Bill Clinton signed the FACE Act into law in 1994. While FACE protects both abortion clinics and pregnancy resource centers, President Joe Biden's DOJ has heavily enforced the law against pro-lifers since the June 2022 overturning of Roe v. Wade.

Continued...

The president's critics have accused the Biden-Harris administration and the DOJ of weaponizing the FACE Act against pro-lifers while failing to charge pro-abortion criminals for the hundreds of attacks on pregnancy resource centers since the May 2022 leak of the draft Supreme Court opinion indicating Roe would soon be overturned.

Some, among them Roy and Sen. Mike Lee, R-Utah, have called for the repeal of the FACE Act, arguing that it serves no purpose but to target pro-life activists.

"The Biden administration is using the FACE Act to give pro-life activists and senior citizens lengthy prison terms for nonviolent offenses and protests—all while turning a blind eye to the violence, arson, and riots conducted on behalf of 'approved' leftist causes," Lee told The Daily Signal in May, when a number of pro-life activists were sentenced to prison time.

"Unequal enforcement of the law is a violation of the law," Lee added at the time, "and men and women who try to expose the horrors of abortion are being unjustly persecuted for their motivations."

Continued...

August 19, 2024 Letter from
U.S. House Rep. Chip Roy (R-TX),
Chairman of the Subcommittee on the Constitution and Limited Government,
of the U.S. House Judiciary Committee

to

FBI Director Chris Wray

https://first-heritage-foundation.s3.amazonaws.com/live_files/2024/08/2024-08-19-Roy-to-Wray-re-FACE-Act-testimony.pdf

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