

Nos. 26-5360, 26-5558

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

STACY SEYB, M.D.,

Plaintiff-Appellee,

v.

MEMBERS OF THE IDAHO BOARD OF MEDICINE, in their official capacities; *et al.*

Defendants,

and

RAÚL LABRADOR,

Intervenor-Defendant-Appellant.

STACY SEYB, M.D.,

Plaintiff-Appellee,

v.

MEMBERS OF THE IDAHO BOARD OF MEDICINE, in their official capacities; *et al.*

Defendants,

and

ADA COUNTY PROSECUTING ATTORNEY, Jan Bennetts, in her official capacity,

Defendant-Appellant.

On Appeal from the U.S. District Court for the District of Idaho
Hon. B. Lynn Winmill
Case No. 1:24-cv-00244-BLW

**APPELLEE’S MOTION TO VACATE PARTIAL STAY OF INJUNCTIVE
RELIEF PENDING APPEAL**

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INTRODUCTION

Dr. Stacy Seyb respectfully moves this Court to vacate the partial stay of injunctive relief pending appeal entered by the district court. The order granting the stay mistakenly relied on *Trump v. CASA, Inc.*, 606 U.S. 831 (2025), which does not govern cases brought under 42 U.S.C. § 1983. Further, as limited by the partial stay, the injunction fails to grant Dr. Seyb complete relief. Accordingly, the Court should vacate the stay in its entirety or, in the alternative, it should vacate the stay as applied to people acting in concert with Dr. Seyb to provide life- and health-preserving abortions.

Appellants oppose this relief.

STATEMENT OF FACTS

Dr. Seyb is a board-certified maternal-fetal medicine specialist (“MFM”) who has worked for St. Luke’s health system in Idaho for more than twenty-five years. ER-23.¹ As an MFM, Dr. Seyb exclusively treats patients with high-risk pregnancies. ER-23. He filed this case to challenge the constitutionality of Idaho’s abortion bans as applied to such patients. ER-3.

On August 13, 2026, following a six-day bench trial, the district court entered Findings of Fact, Conclusions of Law, and Order. ER-1–81. The court

¹ The Attorney General and Ada County Prosecuting Attorney filed Excerpts of Record on August 26, 2026, in connection with their first motion for a stay of injunctive relief pending appeal. Dr. Seyb filed Supplemental Excerpts of Record today, in connection with his response to Appellants’ motions. In the interest of judicial economy, this motion cites to those excerpts.

held that the Due Process Clause of the Fourteenth Amendment guarantees the right to life- and health-preserving abortions. ER-5, 39–72. It further held that, insofar as they prohibit constitutionally protected abortions, Idaho’s abortion bans are not narrowly tailored to serve a compelling state interest. ER-5, 72–74. In addition, the court held that Idaho’s differential treatment of pregnant people with life-threatening mental health conditions and pregnant people with other life-threatening medical conditions violates the Equal Protection Clause. ER-5, 74–77.

It entered an injunction barring the Attorney General, who voluntarily intervened in this lawsuit, 2-SER-96, and Ada County Prosecuting Attorney from enforcing Idaho’s abortion bans in two circumstances:

- (1) “where a physician has determined, in his or her good faith medical judgment, that continuation of the pregnancy poses a non-negligible risk of serious and lasting harm to the health of the pregnant woman”; and
- (2) “where a physician has determined, in his or her good faith medical judgment, that abortion is necessary to prevent a non-negligible risk that continuation of the pregnancy will result in the death of the pregnant woman from self-harm.”

ER-80.² The injunction does not apply to Idaho’s forty-three other county prosecuting attorneys, whom the district court dismissed from the case on Article III standing grounds. 2-SER-117–19.

On August 25, 2026, on motion from the Attorney General, the district court stayed the injunction to the extent it prohibits the Attorney General and Ada County Prosecuting Attorney from enforcing the challenged statutes “against persons other than Dr. Seyb.” 1-SER-7.

On August 26, 2026, Appellants filed an emergency motion for a stay of injunctive relief pending appeal in the Attorney General’s appeal, No. 26-5360. On August 31, 2026, Appellants filed a second emergency motion for a stay of injunctive relief pending appeal in the Ada County Prosecuting Attorney’s appeal, No. 26-5558. Those motions remain pending, and Dr. Seyb filed a consolidated response to them today in accordance with the Court’s September 3, 2026, order.

The district court has not yet entered final judgment, and a motion by Dr. Seyb asking that court to rule on his request for declaratory relief remains pending.

LEGAL STANDARD

“A stay is an ‘intrusion into the ordinary processes of administration and judicial review,’ and accordingly ‘is not a matter of right, even if irreparable injury

² The “non-negligible risk” language comes from a state-court limiting construction of the Defense of Life Act. ER-31, 2-SER-66.

might otherwise result to the appellant.” *Nken v. Holder*, 556 U.S. 418, 427 (2009) (citations omitted). “The party requesting a stay bears the burden of showing that the circumstances justify [its entry].” *Id.* at 433-34. Below, the Attorney General failed to satisfy his burden of showing that the injunction entered by the district court is overbroad. The injunction binds only the Attorney General, who voluntarily intervened in this case, 2-SER-96, and Ada County Prosecuting Attorney, ER-80. Moreover, it bars them from enforcing the challenged laws only in the limited circumstances in which such enforcement would violate the Constitution. ER-80.

ARGUMENT

I. *CASA* Does Not Govern Section 1983 Cases

The preliminary injunctions at issue in *CASA* were based on the general grant of equitable jurisdiction to federal courts by the Judiciary Act of 1789. *See CASA*, 606 U.S. at 841. Accordingly, their propriety turned on whether they were sufficiently analogous to relief issued by the High Court of Chancery in England at the time of the adoption of the Constitution and the enactment of the original Judiciary Act. *Id.* at 841-42; *Grupo Mexicano de Desarrollo, S.A. v. All. Bond Fund, Inc.*, 527 U.S. 308, 318 (1999). Here, in contrast, the district court’s injunction is based on the authority granted to it by a later-enacted statute, Section 1983. *See* 42 U.S.C. § 1983 (“Every person who, under color of any statute ... of

any State ... subjects ... any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution ... shall be liable to the party injured in [a] ... suit in equity”).

Section 1983 was originally enacted as section 1 of the Civil Rights Act of 1871. *Mitchum v. Foster*, 407 U.S. 225, 238 (1972). It is well settled that the statute has a broad remedial purpose. *See Monell v. Dep’t of Soc. Servs. of N.Y.*, 436 U.S. 658, 685 (1978) (“Congress, in enacting [Section 1983], intended to give a broad remedy for violations of federally protected civil rights.”); *Valenzuela v. City of Anaheim*, 6 F.4th 1098, 1102 (9th Cir. 2021) (“§ 1983 was meant to be a remedial statute and should be ‘broadly construed’ to provide a remedy ‘against all forms of official violation of federally protected rights.’” (citations omitted)).

Section 1983’s goals include “deterrence to prevent future abuses of power.” *Valenzuela*, 6 F.4th at 1102.

Section 1983 was intended to have a transformative effect on federal court jurisdiction. *Mitchum*, 407 U.S. at 242. Noting that the legislative history of Section 1983 “makes evident that Congress clearly conceived that it was altering the relationship between States and the Nation with respect to the protection of federally created rights,” the Supreme Court explained that:

Section 1983 was ... a product of a vast transformation from the concepts of federalism that had prevailed in the late 18th century

The very purpose of § 1983 was to interpose the federal courts between the States and the people, as guardians of the people’s federal rights—to protect the people from unconstitutional action under color of state law, ‘whether that action be executive, legislative, or judicial.’

Id. (citation omitted); *accord Health & Hosp. Corp. of Marion Cnty. v. Talevski*, 599 U.S. 166, 176 (2023). *CASA’s* analysis of the scope of equitable jurisdiction created by the Judiciary Act of 1789 is therefore inapposite in a case brought under Section 1983.

Over the years, Congress has enacted statutes to limit the equitable relief that courts may award in Section 1983 actions in certain circumstances. For example, the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, tit. VIII, §§ 801–810, 110 Stat. 1321–66 (codified at 18 U.S.C. § 3626), limited the scope of injunctive relief in cases concerning prison conditions. Likewise, as part of the Federal Courts Improvement Act of 1996, Pub. L. No. 104-317, § 309(c), 110 Stat. 3847, 3853 (codified at 42 U.S.C. § 1983), Congress limited the circumstances in which injunctive relief may be granted against judges in Section 1983 cases. But despite federal courts’ longstanding practice of enjoining state and local officials from enforcing unconstitutional state laws against *anyone*, Congress has never amended Section 1983 to stop them from doing so. This provides further evidence that the practice is consistent with the scope of equitable jurisdiction that Congress intended to convey through Section 1983. *See Monessen Sw. Ry. Co. v. Morgan*, 486 U.S. 330, 338 (1988) (“[W]e have recognized that Congress’ failure to disturb

a consistent judicial interpretation of a statute may provide some indication that ‘Congress at least acquiesces in, and apparently affirms, that [interpretation].’” (citations omitted)); *United States v. Heredia*, 483 F.3d 913, 918–19 (9th Cir. 2007) (“Given the widespread acceptance of [our prior holding] across the federal judiciary, of which Congress must surely have been aware, we construe Congress’s inaction as acquiescence.”); *see also Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230, 244 n.11 (2009) (“When Congress amended [the statute] without altering the text of [the relevant provision], it implicitly adopted [the prior judicial] construction of the statute”).³

Accordingly, the district court’s reliance on *CASA* as authority for staying the injunction against persons other than Dr. Seyb was erroneous.⁴

II. Unlike the Injunctions at Issue in *CASA*, the Injunction Entered by the District Court Has a Limited Geographic Reach and is Based on a Full Evidentiary Record

The injunction entered in this case does not share the problematic features of the injunctions at issue in *CASA*. Whereas the latter barred federal officials from

³ Even in a suit subject to the Prison Litigation Reform Act, 18 U.S.C. § 3626, this Court recognized that a statewide injunction was proper “because the injunction [was] no broader than the constitutional violation,” *Clement v. Ca. Dep’t of Corr.*, 364 F.3d 1148, 1153 (9th Cir. 2004).

⁴ Nor does the memorandum order granting a partial stay of injunctive relief in *Labrador v. Poe*, 144 S. Ct. 921, 921 (2024) (mem.), provide a sufficient legal basis for the stay entered here. The Supreme Court’s order did not explain why it granted the stay, *id.*, and the concurring opinions lack the force of law. Moreover, *Labrador* is distinguishable from this case because the injunction at issue was preliminary, and the district court “did not hear evidence at the [motion] hearing—just argument.” *Poe ex rel. Poe v. Labrador*, 709 F. Supp. 3d 1169, 1180 (D. Idaho 2023).

applying a challenged Executive Order anywhere in the country under any circumstances, 606 U.S. at 839, the injunction entered here bars only the Idaho Attorney General and a single county prosecuting attorney from enforcing Idaho’s abortion bans in particular circumstances, ER-80. Further, whereas the injunctions at issue in *CASA* were based on a preliminary record, 606 U.S. at 839, the injunction entered here is based on a final determination that certain specific applications of the statutes are unconstitutional, made on a full evidentiary record after a six-day trial, ER-80.

First, although the opinion sometimes uses capacious language, *CASA*’s focus is plainly on injunctions barring nationwide enforcement of federal laws. *See CASA*, 606 U.S. at 840 (“By the end of the Biden administration, we had reached ‘a state of affairs where almost every major presidential act [was] immediately frozen by a federal district court.’” (quoting W. Baude & S. Bray, *Proper Parties, Proper Relief*, 137 Harv. L. Rev. 153, 174 (2023))). It recognized that equitable relief against state officials has its own, distinct history. *Id.* at 846 n.9; *see Sanderson v. Hanaway*, No. 4:23-CV-1242-JAR, 2026 WL 1505958, at *1 (E.D. Mo. May 29, 2026) (“*CASA* was not intended to upset longstanding precedent permitting statewide injunctions under *Ex parte Young*.” (citation omitted)); *Welty v. Dunaway*, 791 F. Supp. 3d 818, 843 (M.D. Tenn. 2025)

("[W]hile universal injunctions lack 'historical pedigree,' statewide injunctions appear to have more historical support." (citation omitted)).

The injunction entered here is narrow in scope and applies only to a subset of Idaho officials charged with enforcing Idaho's abortion bans. ER-80. Although it bars the Attorney General from enforcing the challenged laws statewide, it does not bind forty-three of Idaho's forty-four county prosecuting attorneys. Thus, as a practical matter, the geographic reach of the injunction's enforcement limitation is limited to a single county in Idaho. Unlike the injunctions at issue in *CASA*, it does not threaten to frustrate implementation of national policy based on the decision of a single district judge. Further, given that Idaho has only one federal judicial district, it is not the product of forum shopping.

Second, *CASA* focuses on preliminary injunctions, which are based on incomplete evidentiary records and a mere *likelihood* of success on the merits. *See CASA*, 606 U.S. at 870 (Kavanaugh, J., concurring) ("The Court's decision today focuses on the 'interim before the interim'—the preliminary relief that district courts can award (and courts of appeals can approve) for the generally *weeks-long* interim before this Court can assess and settle the matter for the often *years-long* interim before a final decision on the merits."). The injunction entered here followed the district court's final determination on the merits, after a six-day trial,

that the challenged laws *are indeed* unconstitutional and therefore unenforceable in certain circumstances. ER-80.

III. As Limited by the Stay, the Injunction Fails to Provide Complete Relief to Dr. Seyb

CASA stayed the preliminary injunctions at issue in that case “only to the extent that the injunctions [we]re broader than necessary to provide complete relief to each plaintiff with standing to sue.” *CASA*, 606 U.S. at 861. Here, as limited by the stay, the injunction entered by the district court is not sufficient to provide Dr. Seyb with complete relief.

As an MFM, Dr. Seyb provides medical care to patients with high-risk pregnancies in a hospital setting, where he works with a team of other healthcare workers and administrative personnel. ER-23–24; 2-SER-192–93; 3-SER-262–64, 277–78. He cannot provide life- and health-preserving abortions by himself, and absent an injunction protecting them, those acting in concert with Dr. Seyb would face criminal liability for violating the abortion bans or conspiring to do so. *See* Idaho Code § 18-204 (“All persons concerned in the commission of a crime, whether it be felony or misdemeanor, and whether they directly commit the act constituting the offense or aid and abet in its commission, or, not being present, have advised and encouraged its commission ... are principals in any crime so committed.”); *id.* § 18-1701 (“If two (2) or more persons combine or conspire to commit any crime or offense prescribed by the laws of the state of Idaho, and one

(1) or more of such persons does any act to effect the object of the combination or conspiracy, each shall be punishable upon conviction in the same manner and to the same extent as is provided under the laws of the state of Idaho for the punishment of the crime or offenses that each combined to commit.”).

Thus, an injunction that applies only to Dr. Seyb, and not to the people acting in concert with him, fails to enable him to provide his patients with the life- and health-preserving care that the district court held was constitutionally protected. *Cf. Washington v. Trump*, 145 F.4th 1013, 1038 (9th Cir. 2025) (affirming entry of a universal injunction, following *CASA*, where necessary to afford complete relief to the plaintiffs) (“[T]he States would suffer the same irreparable harms under a geographically-limited injunction as they would without an injunction.”).

CONCLUSION

For the reasons set forth above, the Court should vacate the stay entered by the district court in its entirety or, in the alternative, it should vacate the stay as applied to people acting in concert with Dr. Seyb to provide life- and health-preserving abortions while these appeals remain pending.

Dated: September 8, 2026

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CERTIFICATE OF COMPLIANCE

I certify that:

This response complies with the word limit of Circuit Rules 27-1(1)(d) and 32-3 because this response contains 2,609 words, excluding the items exempted by Fed. R. App. P. 32(f).

This response complies with the type size and typeface requirements of Fed. R. App. 32(a)(5) and (6).

Dated: September 8, 2026

/s/ Stephanie Toti
Stephanie Toti

CERTIFICATE OF SERVICE

I hereby certify that, on September 8, 2026, I electronically filed the foregoing response with the Clerk of the Court for the U.S. Court of Appeals for the Ninth Circuit using the appellate ACMS system. I further certify that all participants in the case are registered ACMS users, and that service will be accomplished by the ACMS system.

/s/ Stephanie Toti
Stephanie Toti