

**SUPREME COURT OF LOUISIANA**

**No. 2022-CD-01038**

**JUNE MEDICAL SERVICES, LLC D/B/A HOPE MEDICAL GROUP FOR  
WOMEN ET AL.**

**VS.**

**LANDRY, JEFF, IN HIS OFFICIAL CAPACITY AS ATTORNEY  
GENERAL OF LOUISIANA ET AL.**

On Supervisory Writ to the Orleans Civil District Court, Parish of Orleans Civil

**Crain, J.**, would grant.

We have plenary power to review the trial court's temporary restraining order. These circumstances are at least as compelling as others where we have exercised that authority. See *Perschall v. State of Louisiana*, 96-0322 (La. 7/1/97), 697 So.2d 240; *Marrioneaux v. Hines*, 05-1191 (La. 5/12/05), 902 So.2d 373; *In re Matthews*, 21-01078 (La. 1/28/22), 333 So.3d 422.

Louisiana Code of Civil Procedure article 3603 allows for a temporary restraining order without notice when it clearly appears from specific facts shown by a verified petition or supporting affidavit that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition. In addition, although a party seeking a temporary restraining order based on an alleged unconstitutional statute need not establish the unconstitutionality of the statute to obtain the order, they must make a *prima facie* showing that they will prevail on the merits of the case. *General Motors Acceptance Corp. v. Daniels*, 377 So.2d 346, 348 (La. 1979); *Kruger v. Garden District Assoc.*, 99-3344 (La. 3/24/00), 756 So.2d 309, 311. In other words, the plaintiff must show that the statutes are likely unconstitutional. At this stage, that did not, nor does it now, involve a factual determination. We review the statutes *de novo*, in the same

manner as the trial court, to determine irreparable harm and likelihood of success. The determination is a purely legal analysis. It will not affect the parties' right to a preliminary injunction hearing where evidence, if any, can be received.

I believe the circumstances of this case compel us to review the propriety of the temporary restraining order. The plaintiffs have asserted that they, as doctors, will suffer irreparable harm if the "triggering" statutes that prohibit abortions go into effect. The contrasting interest is that alleged life will be terminated if the prohibitory statutes do not go into effect. While whether these doctors will suffer irreparable harm by being prohibited from performing abortions is debatable, terminating alleged life during the period of the temporary restraining order is irreparable. We should consider these arguments by granting the applicant's writ and staying the effects of the temporary restraining order.

The plaintiffs must also show that the "triggering" statutes are likely unconstitutional. They argue the statutes are unconstitutionally vague. The trial court, by granting the temporary restraining order, presumably agreed. We should grant the applicant's writ to analyze whether the statutes, on their face, are unconstitutionally vague. I have not determined, nor is it necessary to determine at this stage, whether the statutes are unconstitutionally vague or whether the plaintiffs proved irreparable harm. But, I do believe we have a constitutional duty to consider whether the trial court correctly made these determinations. I would grant both the state's writ application and the request for a stay.