

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

DEEP SOUTH TODAY, *d/b/a* VERITE
NEWS, GANNETT CO., INC., GRAY
LOCAL MEDIA, INC., NEXSTAR MEDIA,
INC., SCRIPPS MEDIA INC., and TEGNA
INC.

Plaintiffs,

v.

LIZ MURRILL, *in her official capacity as
Attorney General of Louisiana*, ROBERT P.
HODGES, *in his official capacity as
Superintendent of the Louisiana State Police*,
and HILLAR C. MOORE, III, *in his official
capacity as District Attorney of East Baton
Rouge Parish*,

Defendants.

CASE NO. 3:24-cv-00623-RLB-SDJ

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs move this Court, pursuant to Federal Rule of Civil Procedure 65 and Local Rule 65, for a preliminary injunction enjoining all Defendants, their officers, agents, affiliates, subsidiaries, servants, employees, successors, and all other persons or entities in active concern or privity or participation with them from enforcing or threatening enforcement of House Bill No. 173, Act No. 259 (“HB 173” or the “Act”), which makes it a criminal offense to “knowingly or intentionally approach within twenty-five feet of a peace officer who is lawfully engaged in the execution of his official duties after the peace officer has ordered the person to stop approaching or to retreat.” La. Rev. Stat. § 14:109(A).

For the reasons detailed in Plaintiffs’ Complaint, ECF No. 1, and the concurrently filed Memorandum in Support of Plaintiffs’ Motion for Preliminary Injunction (“Memorandum”),

Plaintiffs respectfully request that this Motion for Preliminary Injunction be granted pending disposition of their claims that the Act violates the First and Fourteenth Amendments of the Constitution on its face and as applied to Plaintiffs' peaceful, nonobstructive efforts to gather news within twenty-five feet of peace officers. In support of this Motion, Plaintiffs aver:

1. In their Complaint, Plaintiffs requested “[a]n injunction restraining Defendants from enforcing the Act.” ECF No. 1.

2. This Motion is based on all the pleadings Plaintiff has filed in this case and referenced herein, including the Complaint, Memorandum, and the evidence submitted in support of this Motion, including the signed declarations of Jazmin Thibodeaux Chretien, Richard Erbach, Katherine Jane Fernelius, Curtis Sprang, Patrick Thomas, and Tyrienne Nicole Waivers.

3. The Act was signed by Governor Jeff Landry on May 24, 2024. It went into effect on August 1, 2024 and is now codified at La. Rev. Stat. § 14:109.

4. The Act makes it a criminal offense to “knowingly or intentionally approach within twenty-five feet of a peace officer who is lawfully engaged in the execution of his official duties after the peace officer has ordered the person to stop approaching or to retreat.” La. Rev. Stat. § 14:109(A). That provision grants peace officers standardless discretion to prevent journalists from approaching near enough to document the way officers perform their duties.

5. Plaintiffs are likely to prevail on the merits of their claims that the Act violates the First and Fourteenth Amendments of the Constitution, on its face and as applied to Plaintiffs' peaceful, nonobstructive newsgathering in public places.

6. Plaintiffs are now suffering and will continue to suffer irreparable harm absent a preliminary injunction because the “[t]he loss of First Amendment freedoms, for even minimal

periods of time, unquestionably constitutes irreparable injury.” *Book People, Inc. v. Wong*, 91 F.4th 318, 341 (5th Cir. 2024).

7. The balance of equities favors granting preliminary injunctive relief because “[i]njunctions protecting First Amendment freedoms are always in the public interest.” *Id.* Preliminary relief would serve the public interest for the same reason.

8. The Court should enter a preliminary injunction without bond because Defendants will suffer no damages from an injunction against enforcement of an unconstitutional statute, *see Planned Parenthood Gulf Coast, Inc. v. Kliebert*, 141 F. Supp. 3d 604, 652 (M.D. La. 2015) (waiving Rule 65 bond), while requiring the posting of a bond would burden Plaintiffs’ First Amendment rights.

9. Plaintiffs’ concurrently filed Memorandum in support of this Motion is incorporated herein.

WHEREFORE, pursuant to Fed. R. Civ. P. 65(a), Plaintiffs respectfully request that the Court enter a preliminary injunction, without bond, restraining Defendants from enforcing La. Rev. Stat. § 14:109 pending a final judgment.

Dated: September 13, 2024

/s/ Katie Townsend
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CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2024, pursuant to Federal Rule of Civil Procedure 5(b)(2)(C) and Local Civil Rule 5(e)(2), I caused a true and correct copy of the foregoing Motion, and all attachments thereto, to be served by CM/ECF.

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