

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF TEXAS,

Defendant.

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1:21-CV-796-RP

ORDER

Before the Court are Intervenor-Defendants Erick Graham, Jeff Tuley, and Mistie Sharp’s (“Intervenors”) Motion for Reconsideration of Order Regarding Hearing (“Motion”), (Dkt. 49), the United States’ Response, (Dkt. 51), and the Intervenors’ Reply, (Dkt. 52). The preliminary injunction hearing is set for tomorrow, October 1, 2021, at 9:00 a.m. (Dkt. 12). On September 28, 2021, the Court issued an order allotting the United States and the State of Texas (“Texas”) one hour each to present facts and arguments, plus twenty minutes for Texas to present deposition testimony, and the Intervenors thirty minutes, plus ten minutes for another intervenor. (Order, Dkt. 41).

The Intervenors now request, on the eve of the hearing, that the Court alter its hearing schedule to allow them two hours (twice the amount of time allotted to the plaintiff and defendant) to present live witness testimony from the United States’ abortion provider declarants and two or three other unidentified witnesses. (Dkt. 49, at 5).

Although this case has, of necessity, proceeded on an expedited timeline, Intervenors did not file their Motion to Intervene until two weeks after this case was filed. (Dkt. 28). They have waited another full week—until less than two days before the hearing—to make this request to the Court, despite the fact that the hearing has been scheduled since before they moved to intervene. (Dkt. 12).

Intervenors have been allotted thirty minutes to present facts and arguments not already raised by Texas. Under this schedule, the defendants collectively—including Intervenors—will have two-thirds of the total time for the hearing. To grant Intervenors even more time would stretch the bounds of fairness.

As such, **IT IS ORDERED** that Erick Graham, Jeff Tuley, and Mistie Sharp’s Motion for Reconsideration of Order Regarding Hearing, (Dkt. 49), is **DENIED**.

SIGNED on September 30, 2021.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE