

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

STATE OF TEXAS and
STATE OF OKLAHOMA ,

Plaintiffs,

v.

EMANUEL McCRAY, on behalf of himself
and all other similarly situated,

Intervenor Plaintiff,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, et al.,

Defendants.

Civ. A. No. 4:23-cv-00066-Y

**DEFENDANTS' MOTION TO DISMISS
PLAINTIFFS' COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Defendants move to dismiss Plaintiffs' Complaint for Declaratory and Injunctive Relief (Doc. 1) under Federal Rule of Civil Procedure 12(b)(1). As further detailed in the accompanying brief in support of this motion, Plaintiffs' complaint fails for threshold reasons, including standing and ripeness, and should be dismissed for lack of subject matter jurisdiction. Moreover, Plaintiffs fail to establish their entitlement to extraordinary injunctive relief, as Plaintiffs are unlikely to succeed on the merits of their claims and the balance of equities favors denying Plaintiffs' request for injunctive relief.

Dated: March 27, 2023

Respectfully submitted,

LEIGHA SIMONTON
UNITED STATES ATTORNEY

s/ Marti Cherry

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Certificate of Service

On March 27, 2023, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

s/ Mary M. (Marti) Cherry

Mary M. (Marti) Cherry
Assistant United States Attorney