

RECOMMENDED FOR PUBLICATION  
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 21a0258p.06

**UNITED STATES COURT OF APPEALS**

FOR THE SIXTH CIRCUIT

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RESURRECTION SCHOOL; CHRISTOPHER MIANECKI,  
individually and as next friend on behalf of his minor  
children C.M., Z.M., and N.M.; STEPHANIE SMITH,  
individually and as next friend on behalf of her minor  
child F.S.,

*Plaintiffs-Appellants,*

v.

ELIZABETH HERTEL, in her official capacity as the  
Director of the Michigan Department of Health and  
Human Services; DANA NESSEL, in her official  
capacity as Attorney General of the State of Michigan;  
LINDA VAIL, in her official capacity as the Health  
Officer of Ingham County; CAROL A. SIEMON, in her  
official capacity as the Ingham County Prosecuting  
Attorney,

*Defendants-Appellees.*

No. 20-2256

On Petition for Rehearing En Banc.

United States District Court for the Western District of Michigan at Grand Rapids;  
No. 1:20-cv-01016—Paul Lewis Maloney, District Judge.

Decided and Filed: November 10, 2021

Before: SUTTON, Chief Judge; MOORE, COLE, CLAY, GIBBONS,  
GRIFFIN, KETHLEDGE, WHITE, STRANCH, DONALD, THAPAR,  
BUSH, LARSEN, NALBANDIAN, READLER, and MURPHY, Circuit Judges.

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**COUNSEL**

**ON PETITION FOR REHEARING EN BANC:** Erin Elizabeth Mersino, GREAT LAKES JUSTICE CENTER, Lansing, Michigan, Robert J. Muise, AMERICAN FREEDOM LAW CENTER, Ann Arbor, Michigan, for Appellants. **ON RESPONSE:** Daniel J. Ping, Joseph T. Froehlich, Ann M. Sherman, Jennifer Rosa, OFFICE OF THE MICHIGAN ATTORNEY GENERAL, Lansing, Michigan, for State of Michigan Appellees. Bonnie G. Toskey, Sarah K.

Osburn, COHL, STOKER & TOSKEY, P.C., Lansing, Michigan, for Appellees Linda Vail and Carol Siemon. **ON BRIEF:** Brett R. Nolan, OFFICE OF THE KENTUCKY ATTORNEY GENERAL, Frankfort, Kentucky, Daniel H. Blomberg, THE BECKET FUND FOR RELIGIOUS LIBERTY, Washington, D.C., for Amici Curiae.

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**ORDER**

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A majority of the Judges of this Court in regular active service has voted for rehearing en banc of this case. Sixth Circuit Rule 35(b) provides as follows:

The effect of the granting of a hearing en banc shall be to vacate the previous opinion and judgment of this court, to stay the mandate and to restore the case on the docket sheet as a pending appeal.

Accordingly, it is ORDERED, that the previous decision and judgment of this court are vacated, the mandate is stayed and this case is restored to the docket as a pending appeal.

The Clerk will direct the parties to file supplemental briefs and will schedule this case for oral argument as soon as possible.

ENTERED BY ORDER OF THE COURT



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Deborah S. Hunt, Clerk