

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 4, 2019

Lyle W. Cayce
Clerk

No. 17-50282

PLANNED PARENTHOOD OF GREATER TEXAS FAMILY PLANNING
AND PREVENTATIVE HEALTH SERVICES, INC; PLANNED
PARENTHOOD SAN ANTONIO; PLANNED PARENTHOOD CAMERON
COUNTY; PLANNED PARENTHOOD GULF COAST, INC; PLANNED
PARENTHOOD SOUTH TEXAS SURGICAL CENTER; JANE DOE #1;
JANE DOE #2; JANE DOE #4; JANE DOE #7;
JANE DOE #9; JANE DOE #10; JANE DOE #11,

Plaintiffs - Appellees

v.

CHARLES SMITH, in his official capacity as Executive Commissioner of
HHSC; SYLVIA HERNANDEZ KAUFFMAN, in her official capacity as
Acting Inspector General of HHSC,

Defendants - Appellants

Appeal from the United States District Court for the
Western District of Texas

(Opinion January 17, 2019, 5 Cir., 2019, ___ F.3d ___)

Before STEWART, Chief Judge, JONES, SMITH, DENNIS, OWEN,
ELROD, SOUTHWICK, HAYNES, GRAVES, HIGGINSON, COSTA,
WILLET, HO, DUNCAN, and ENGELHARDT, Circuit Judges.¹

¹ Judge Oldham is recused and did not participate in this decision.

BY THE COURT:

A majority of the circuit judges in regular active service and not disqualified having voted in favor, on the Court's own motion, to rehear this case en banc,

IT IS ORDERED that this cause shall be reheard by the court en banc with oral argument on a date hereafter to be fixed. The Clerk will specify a briefing schedule for the filing of supplemental briefs.