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Pro se

United States District Court  
District of New Mexico  
Las Cruces Division

HUGUETTE NICOLE YOUNG,	)	CASE NO. 20cv789
Plaintiff,	)	
	)	
v.	)	
	)	
HECTOR BALDERAS, IN HIS OFFICIAL	)	
CAPACITY AS ATTORNEY GENERAL	)	
OF THE STATE OF NEW MEXICO,	)	
Defendant	)	
	)	
_____	)	
	)	

**Verified Complaint for Declaratory and Emergency Injunctive Relief**

Plaintiff complains as follows:

**Introduction**

1. This is a constitutional challenge to a YouTube directive (henceforth referred to as YouTube Directive) issued by the governor of New Mexico, Michelle Lujan Grisham, on July

13, 2020, stating that, effective July 16, 2020, face masks will be mandated in all counties of New Mexico for anybody going out in public (“Gov. Lujan Grisham on face masks in the state,” posted July 13, 2020, available at: <https://www.youtube.com/watch?v=Kp2k6FPRWzo>). While most governors who have issued face mask orders thus far have issued an executive order in writing covering on the subject that can be challenged in court, Governor Kate Brown of Oregon and Governor Lujan Grisham of New Mexico issuing face mask orders via YouTube directives may be the first time in history constitutional challenges to state laws must cite a YouTube link as the basis for authority of the law.

2. YouTube Directive violates plaintiff’s First Amendment right of free speech under the United States Constitution by literally blocking plaintiff’s ability to speak audibly and clearly while wearing a face mask, so much so that many like plaintiff who are rightfully offended by blanket face mask orders (that appear, in the absence of transparency, to be based mostly on political power grabbing in the face of unjustified hysteria) refer to face mask orders under these conditions as muzzle orders.

3. The government, including Governor Lujan Grisham, may violate plaintiff’s right to free speech with a law, order, or rule if the government can do two things: 1) The government shows a compelling public interest in issuing the rule that outweighs violating plaintiff’s rights, and 2) the law addresses the compelling public interest in the most specific and effective way possible so as to be least intrusive on plaintiff’s rights. This is referred to as a strict scrutiny standard of review, and the court must apply this standard to any law, order, or rule that infringes upon the most fundamental of all human rights. The First Amendment right to free speech falls into the category of rights that require the highest level of protection, and therefore a law like

YouTube Directive, which infringes on plaintiff's right to free speech, must pass strict scrutiny.

4. The federal government has not issued face mask requirements in any jurisdiction, only state and local governments have done so. However, many health experts and scientists in the federal government who should know better are purposely skewing scientific data to make it appear Covid-19 is a public health disaster and to imply that requiring face masks is the best way to address this public health disaster, thereby giving the appearance that face mask orders like YouTube Directive pass both prongs of the strict scrutiny test. This is a fallacy.

5. The most reliable scientific data to date shows all state and local face mask orders, including YouTube Directive, fail both prongs of the strict scrutiny test because 1) as of June, 2020, there is no state, county, or city in the United States that has shown Covid-29 qualifies as a public health disaster (or even an imminent public health disaster) within its jurisdiction, at least not a disaster that is worse than the flu in terms of estimated number of deaths and estimated number of people infected, and 2) face mask requirements like YouTube Directive most likely lead to a significant increase in spread of the virus through surface contacts while having little to no effect on spread of the virus through the air (at least no effect that can not just as easily be achieved by having all infected persons cough into the crooks of their elbows), resulting in a net increase in spread of the virus. This is in addition to mounting scientific data showing prolonged face mask use cuts down on oxygen intake for the individual and may cause long term health problems, a concern that is particularly applicable to employees at places like Walmart and Costco who are required to wear face masks 40 to 60 hours a week.

Experts have known Covid-19 is not a pandemic since February, 2020

6. While lay people, politicians, and judges have been left helpless and at the mercy of health experts claiming “we just don’t know enough” during the first lockdown phase of Covid-19 disease, we are too far along now and have learned more than enough about the Covid-19 disease to allow the same set of health experts to hoodwink us into a second round of unjustified rights violations. Based on preliminary data out of China, as early as February, 2020, public health officials Anthony Fauci and Robert Redfield, heads of the National Institutes of Allergies and Infectious Diseases (NIAID) and the Centers for Disease Control and Prevention (CDC), respectively, and current members of the Presidential Task Force on Coronavirus, acknowledged that Covid-19 was probably not as deadly of a virus as first thought and may end up being close to the seasonal flu in number of deaths and number of people infected (scientists use these two numbers -- number and deaths and number of people infected -- to calculate something called the “mortality rate” or “case fatality rate” of a virus, which is the single most important number in determining whether a virus qualifies as a public health emergency).

7. On February 28, 2020, Fauci and Redfield wrote in an editorial in the New England Journal of Medicine:

“The case fatality rate (of Covid-19) may be considerably less than 1%. This suggests that the overall clinical consequences of Covid-19 may ultimately be more akin to those of a severe seasonal influenza (which has a case fatality rate of approximately 0.1%) or a pandemic influenza (similar to those in 1957 and 1968) rather than a disease similar to SARS or MERS, which have had case fatality rates of 9 to 10% and 36%, respectively.” (“Covid-19 — Navigating the Uncharted,” N Engl J Med 2020; 382:1268-1269 DOI: 10.1056/NEJMe2002387)

8. Neither Fauci nor Redfield have retracted nor modified this prediction about Covid-19 in any official manner since February, 2020, and most scientific data since the publication of this

article have verified that Covid-19 is akin to the seasonal flu in mortality rate. This unfortunately has not stopped Fauci from spinning Covid-19 as a public health disaster in the media. On March 27, 2020, Fauci told Comedy Central host Trevor Noah, “The mortality rate of [COVID-19] is about 10 times [flu] - it’s at least 1%” (From “Dr. Fauci Answers Trevor’s Questions About Coronavirus | The Daily Social Distancing Show” at <https://www.youtube.com/watch?v=8A3jiM2FNR8>, time marker 1:11). Fauci purposely neglects to mention that even if the mortality rate of Covid-19 is “about 10 times the flu” (which is not what Fauci claims in writing when speaking to other scientists), the mortality rate of Covid-19 would still be 10 times and 30 times lower than SARS and MERS, respectively (which had mortality rates of 10% and 30%, respectively), and it is highly debatable whether Covid-19 would qualify as a public health emergency even if its mortality rate were “10 times higher” than the flu.

9. That the general consensus in the scientific community from early data out of China is that Covid-19 was not nearly as deadly as originally thought was confirmed by Deborah Birx, another member of the Presidential Task Force on Coronavirus, who said in response to an reporter’s question on March 31, 2020, about why there was no general lockdown ordered to stop the spread of Covid-19 in the United States:

“I was overseas when this happened, in Africa, and I think when you looked at the China data originally and you said, ‘Oh, well, there’s 20 million people in Wuhan and 80 million people in Hubei and they come up with a number of 50,000 (deaths), you start thinking of this more like SARS than you do this kind of global pandemic. I mean I’ll just be frank. When I looked at it I was like, ‘Oh, well, this is not, you know, as close as those quarters are...’ so I think the medical community interpreted the Chinese data as this was serious but smaller than anyone expected. And so what was modeled was not a lockdown.” (From “March 31, 2020 | Members of the Coronavirus Task Force Hold a Press Briefing” at <https://www.youtube.com/watch?v=e9v8ZZd1P0M>, time marker 3:50:22)

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