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U.S. attorney pushes back against Philadelphia supervised injection site's religious liberty argument

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The U.S. Attorney's Office this week asked a federal judge to hand down an early ruling in the government's lawsuit against the nonprofit attempting to open a supervised injection site in Philadelphia.

The filing, known as a dispositive motion, asks a judge to rule in the government's favor, forgoing a discovery period and a trial.

Attorneys for Safehouse, the nonprofit founded to help address the nation's worst big-city overdose crisis, said they would prefer a trial.

In the brief, U.S. Attorney William M. McSwain used former Gov. Ed Rendell's own words to argue against the legality of a site where people can use drugs under medical supervision, be revived if they overdose, and access treatment. McSwain quoted remarks delivered by Rendell, who serves on the nonprofit's board, at a Cato Institute symposium in March.

There, speaking of his decision to back the site, Rendell said he "knew it was against the law." He didn't specify which law. McSwain has argued that it violates a federal law colloquially known as "the crackhouse statute," which forbids the operation of a facility for drug use or sales. Safehouse has argued the law was never meant to cover a public-health measure.

The brief also noted that Rendell garnered a laugh from the Cato audience when he said Safehouse's argument that saving lives in the overdose crisis is a reflection of its founders' religious beliefs "isn't our strongest argument."

(The nonprofit's strongest argument, Rendell continued, "is that legislative intent does matter. You can't put down in black letters everything that's developed as technology changes, circumstances change, environments change.")

"That's a pretty damning admission, from my perspective," McSwain said. "Ed Rendell has basically just said they have no case."

Ronda Goldfein, Safehouse's vice president and an attorney, said she didn't believe that "anyone's extrajudicial statement is the determining factor on whether an event or activity is lawful."

"We think this matter needs to go before a court, have a judge look at the information, and make a decision based on the materials in front of him. We are not asking judges to look beyond the courtroom," said Goldfein, who is married to an Inquirer editor, David Lee Preston.

In the brief and in an interview with *The Inquirer*, McSwain reiterated his argument that opening a supervised injection site is illegal because it violates the crackhouse statute. He also called Safehouse's religious freedom argument too broad.

"I don't doubt [a supervised injection site] is consistent with their Judeo-Christian beliefs, but that is not enough to trigger" religious-liberty protections, McSwain said. He continued, reading from the brief: "What of, for example, the bank robber who claims that he steals from the rich to give to the poor in order to 'reduce harm' to the underprivileged community or even to 'save lives?'"

Goldfein has argued that the sites, which have existed in Canada and several other countries for decades, are a legitimate public-health measure designed to save lives in a city where more than 3,000 people have died of drug overdoses in the last three years.

"We maintain our consistent disagreement over whether it's a lawful activity, and the fact that they have responded doesn't change our respectful disagreement," she said.