

No. \_\_\_\_\_

---

IN THE  
**Supreme Court of the United States**

---

THOMAS E. DOBBS, M.D., M.P.H., IN HIS OFFICIAL CAPACITY AS STATE  
HEALTH OFFICER OF THE MISSISSIPPI DEPARTMENT OF HEALTH; KENNETH  
CLEVELAND, M.D., IN HIS OFFICIAL CAPACITY AS EXECUTIVE DIRECTOR  
OF THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE,

*Petitioners,*

v.

JACKSON WOMEN'S HEALTH ORGANIZATION, ON BEHALF OF ITSELF AND ITS  
PATIENTS; SACHEEN CARR-ELLIS, M.D., M.P.H., ON BEHALF OF HERSELF AND HER  
PATIENTS,

*Respondents.*

---

**APPLICATION FOR AN EXTENSION OF TIME IN WHICH  
TO FILE A PETITION FOR WRIT OF CERTIORARI**

---

LYNN FITCH,  
MISSISSIPPI ATTORNEY GENERAL

PAUL ELDRIDGE BARNES  
*Counsel of Record*  
Special Assistant Attorney General  
550 High Street  
Jackson, Mississippi 39201  
Telephone: (601) 359-4072  
pbarn@ago.ms.gov

*Counsel for Applicants*

**TO THE HONORABLE SAMUEL A. ALITO, JR., ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE FIFTH CIRCUIT:**

Pursuant to Supreme Court Rules 13.5, 22, and 30, Applicants Thomas E. Dobbs, M.D., M.P.H., in his official capacity as State Health Officer of the Mississippi Department of Health, and Kenneth Cleveland, M.D., in his official capacity as Executive Director of the Mississippi State Board of Medical Licensure, respectfully seek a 60-day extension of time, until June 15, 2020, in which to file a certiorari petition seeking review of the Fifth Circuit’s decision issued December 13, 2019, in *Jackson Women’s Health Organization v. Dobbs* (“*JWHO I*”), 945 F.3d 265 (5th Cir. 2019) (attached as Appendix A), in which that Court affirmed a permanent injunction barring enforcement of 2018 Mississippi House Bill 1510, which bars most abortions after a gestational age of 15 weeks. Applicants timely filed a petition for rehearing en banc that the Fifth Circuit denied on January 17, 2020 (attached as Appendix B).

1. The district court had jurisdiction under 28 U.S.C. § 1331. The Fifth Circuit had appellate jurisdiction under 28 U.S.C. § 1291. This Court has jurisdiction under 28 U.S.C. § 1254(1).

2. Applicants will file a petition for writ of certiorari seeking review of the Fifth Circuit’s decision in *JWHO I*. Under Rule 13.3, the time for Applicants to file their petition, unless extended, will expire on April 16, 2020. Thus, Applicants are filing this application for an extension of time more than “10 days before the date

the petition is due.” Rule 13.5.

3. This case presents a substantial and important question of federal law: Whether a law which bars some, but not all, abortions after a gestational age of 15 weeks, is categorically unconstitutional, without any comparison of the potential benefits and burdens.

4. The underlying litigation involves three distinct challenges to the constitutionality of certain Mississippi laws related to abortion. Respondents contend that all of the following are unconstitutional: (1) H.B. 1510, the 15-week law; (2) 2019 Mississippi House Bill 2116, which bars most abortions after the detection of a fetal heartbeat; and (3) numerous other Mississippi laws and regulations pertaining to abortion that were separately enacted over a span of years from 1991-2014, which Respondents allege “individually and cumulatively” impose an undue burden on women, including: Mississippi’s licensure requirements for abortion clinics, informed consent and 24-hour waiting period law, physicians-only law, and telemedicine law.

5. This appeal involves only the 2018 permanent injunction barring enforcement of H.B. 1510, the 15-week law. Applicants separately appealed the 2019 preliminary injunction barring enforcement of the fetal heartbeat law. The Fifth Circuit denied that appeal on February 20, 2020, but the fetal heartbeat injunction is not at issue here. *Jackson Women’s Health Organization v. Dobbs* (“*JWHO II*”), 2020 WL 831758 (5th Cir. Feb. 20, 2020) (per curiam). The

“cumulative effects” portion of the case is still in discovery in the district court.

6. The undersigned Paul E. Barnes is counsel of record for Applicants in this appeal; *JWHO II*, the separate appeal of the fetal heartbeat law; and also serves as lead counsel for Applicants in the defense of the cumulative effects challenge pending in the district court, where the parties are currently engaged in extensive discovery, with numerous upcoming scheduling deadlines. Further, Paul E. Barnes is also co-lead counsel for all State defendants in other significant pending litigation, most specifically an Eighth Amendment challenge to the constitutionality of Mississippi’s lethal injection protocol, *Jordan v. Hall*, No. 3:15-cv-00295-HTW- LRA (S.D. Miss. filed Apr. 16, 2015). The discovery deadline in that case, which is set for trial September 8, 2020, is March 31, 2020.

7. Newly-elected Mississippi Attorney General Lynn Fitch took office on January 9, 2020. On February 24, 2020, General Fitch announced the appointment of Kristi Haskins Johnson to serve as Mississippi’s first-ever Solicitor General. Ms. Johnson assumed her duties on March 10, 2020. In addition to Applicants’ upcoming petition, on March 9, 2020, this Court granted certiorari in another case within the Solicitor General’s purview, *Jones v. Mississippi*, No. 18-1259. The Solicitor General’s duties also require her participation in numerous appeals pending in other courts. The Solicitor General necessarily requires additional time to coordinate the State’s ongoing efforts in the two matters before this Court, as well as the appeals pending elsewhere.

8. Further, the workforce of the Attorney General's Office is actively involved in extensive litigation concerning conditions in Mississippi's prison system, as well as preparing for the potential impact of the coronavirus on Mississippi state government, including, but not limited to, the Attorney General's Office itself.

9. An extension in this case will not prejudice Respondents, because Applicants have been permanently enjoined from enforcing the 15-week law.

10. The undersigned contacted counsel for Respondents, Hillary Schneller of the Center for Reproductive Rights, who indicated that Respondents do not oppose the requested 60-day extension.

There is good cause for a 60-day extension. Accordingly, Applicants respectfully request that the Court extend the time in which to file a petition for writ of certiorari for sixty (60) days, until June 15, 2020.

LYNN FITCH,  
Mississippi Attorney General

/s/ Paul Eldridge Barnes  
PAUL ELDRIDGE BARNES  
*Counsel of Record*  
Special Assistant Attorney General  
550 High Street  
Jackson, Mississippi 39201  
Telephone: (601) 359-4072  
pbarn@ago.ms.gov

*Counsel for Applicants*