

Supreme Court, U.S.

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No. 20-930

IN THE
Supreme Court of the United States

KARL GEPPERT,
Petitioner,

v.

MARYLAND MOTOR VEHICLE ADMINISTRATION,
Respondent.

On Petition for a Writ of Certiorari
to the Maryland Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

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ORIGINAL



QUESTION PRESENTED

The Social Security Act of 1935, as amended, authorized the issuance of social security numbers to applicants for federal benefits, but did not require U.S. citizens to obtain such numbers. The REAL ID Act of 2005 similarly does not require U.S. citizens to obtain social security numbers. Despite this, the Maryland Court of Appeals, interpreting the requirements of State driver's license statutes implementing the REAL ID Act, determined that a U.S. citizen must obtain a social security number in order to qualify for a driver's license in Maryland.

Question:

Where no federal law requires a citizen of the United States to obtain a social security number, may a State legislature, or its courts in applying the State law, require a citizen to obtain such federal number in order to receive a State privilege?

LIST OF PARTIES

Karl E. Geppert is the petitioner herein and was plaintiff, plaintiff-appellant, and respondent, respectively, in the Maryland State trial, appellate and Court of Appeals proceedings below.

The Maryland Motor Vehicle Administration, Helen Myers, Leight D. Collins, Damon L. Bell, and Milton Chafee were named in Geppert's action for mandamus at the trial court level. The Maryland Motor Vehicle Administration is the party who appeared and was by turns the defendant, defendant-appellee, and petitioner, respectively, in the State trial, appellate and Court of Appeals proceedings below.

CORPORATE DISCLOSURE STATEMENT

Petitioner is an individual.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Karl Geppert (“Geppert”) respectfully petitions for a writ of certiorari to review a judgment of the Maryland Court of Appeals.

OPINIONS BELOW

The opinion of the Maryland Court of Appeals appears at Appendix A to this petition. The court’s opinion is published at *Motor Vehicle Administration, et al. v. Karl Geppert*, 470 Md. 28 (2020).

JURISDICTION

The Maryland Court of Appeals issued its decision on July 27, 2020. The jurisdiction of this Court is invoked under 28 U.S.C. §1257(a).

INTRODUCTION

This petition presents a first-impression question involving the requirements of the REAL ID Act of 2005 as applied by the States.

The REAL ID Act was passed to set federal standards for the issuance of sources of identification, such as State driver’s licenses. It prohibits federal agencies from accepting driver’s licenses as identification for official federal purposes (as defined by the Department of Homeland Security, this includes entering certain federal buildings and access to airplanes) from States that do not implement the standards of the Act. While many States have complied with the REAL ID Act and

implemented the minimum issuance standards required by that Act, those States generally offer two tiers of driver's license — a non-REAL ID license for persons who cannot meet the federal requirements as interpreted by the State, and a REAL ID compliant one for those who can.

Maryland, however, implemented REAL ID by passing statutes which provide a REAL ID driver's license¹ to *all* persons with lawful presence in the United States, and a non-REAL ID license to all persons who cannot show that they are lawfully present in the United States (*i.e.*, illegal aliens).

One of the requirements for minimum issuance under the REAL ID Act is that a person is required either to show "proof" of a social security number (SSN) *or* "verification" that he is *ineligible* for an SSN.

For a U.S. citizen to become eligible to be issued an SSN, he must apply and fulfill evidentiary requirements to the Social Security Administration's satisfaction. No federal law requires a citizen (or indeed, anyone) to apply for an SSN, and persons who do not apply are not eligible.

The Maryland Court of Appeals, without any analysis of the relevant federal laws and regulations, held that Karl Geppert, a U.S. citizen without an SSN, was *eligible* for one despite never having applied for one. Because he doesn't have a number, the court ruled he doesn't meet the SSN requirement for a REAL ID under Maryland law. This ruling deprives Geppert, a citizen lawfully present in the United States, of his property interest in a State privilege. Further, it creates a requirement, not

¹ References to driver's license includes all forms of such licenses, including the learner's permit sought by Petitioner.

passed by the legislature, for a person to apply for and obtain a federal SSN in order to meet application requirements for a Maryland driver's license. As applied to the Maryland statutes, the court's ruling violates the Supremacy Clause and the Fourteenth Amendment.

RELEVANT CONSTITUTIONAL PROVISIONS, FEDERAL AND STATE LAWS, AND REGULATIONS

Article VI, Cl. 2 (the "Supremacy Clause") of the United States Constitution, provides:

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; ...

The Fourteenth Amendment of the United States Constitution, Section 1, provides:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

49 U.S.C. 30301 note (REAL ID Act of 2005, Pub. L. 109-13, div. B, title II, May 11, 2005, 119 Stat. 311), provides:

(a) Minimum Standards for Federal Use.-

(1) In general.-Beginning 3 years after the date of the enactment of this division, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section. ...

(c) Minimum Issuance Standards.-

(1) In general.-To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person: ...

(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number. ...

MD Code, Transportation, § 16-103.1 provides:

The Administration may not issue a driver's license to an individual: ...

(10) Who does not provide satisfactory documentary evidence of lawful status;

(11) Who does not provide:

(i) Satisfactory documentary evidence that the applicant has a valid Social Security number by presenting the applicant's Social Security Administration account card or, if the Social Security Administration account card is not available, any of the following documents bearing the applicant's Social Security number:

1. A current W-2 form; 2. A current SSA-1099 form; 3. A current non-SSA-1099 form; or 4. A current pay stub with the applicant's name and Social Security number on it; or

(ii) Satisfactory documentary evidence that the applicant is not eligible for a Social Security number;

...

MD Code, Transportation, § 16-106 provides:

(a) Each application for a driver's license shall be made on the form that the Administration requires.

(b) The application shall State:... (4) Subject to the provisions of subsection (c) of this section, the applicant's Social Security number; and (5) Any other pertinent information that the Administration requires.

(c) An applicant shall provide: (1) Satisfactory documentary evidence that the applicant has a valid Social Security number ... or (2) Satisfactory documentary evidence that the applicant is not eligible for a Social Security number.

(d) The applicant shall sign the application and certify that the statements made in it are true.

42 U.S.C. §405 provides, in pertinent part:

(2)(A) On the basis of information obtained by or submitted to the Commissioner of Social Security, and after such verification thereof as the Commissioner deems necessary, the Commissioner of Social Security shall establish and maintain records of the amounts of wages paid to, and the amounts of self-employment income derived by, each individual and of the periods in which such wages were paid

and such income was derived and, upon request, shall inform any individual or his survivor, or the legal representative of such individual or his estate, of the amounts of wages and self employment income of such individual and the periods during which such wages were paid and such income was derived, as shown by such records at the time of such request.

(B)(i) In carrying out the Commissioner's duties under subparagraph (A) and subparagraph (F), the Commissioner of Social Security shall take affirmative measures to assure that social security account numbers will, to the maximum extent practicable, be assigned to all members of appropriate groups or categories of individuals by assigning such numbers (or ascertaining that such numbers have already been assigned):

(I) to aliens at the time of their lawful admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States and to other aliens at such time as their status is so changed as to make it lawful for them to engage in such employment;

(II) to any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from Federal funds including any child on whose behalf such benefits are claimed by another person; ...

(ii) The Commissioner of Social Security shall require of applicants for social security account numbers such evidence as may be necessary to establish the age, citizenship, or alien status, and true identity of such applicants, and to determine which (if any) social security account number has previously been assigned to such individual. ...

20 C.F.R. §422.104 provides:

Who can be assigned a social security number.

(a) *Persons eligible for SSN assignment.* We can assign you a social security number if you meet the evidence requirements in §422.107 and you are:

(1) A United States citizen; ...

20 C.F.R. §422.107 provides:

Evidence requirements. (a) General. To obtain an original Social Security number card, you must submit convincing evidence of your age, U.S. citizenship or alien status, and true identity, as described in paragraphs (b) through (e) of this section. ... We will not assign a Social Security number or issue an original or replacement card unless we determine that you meet all of the evidence requirements. We require an in-person interview if you are age 12 or older and are applying for an original Social Security number, unless you are an alien who requests a Social Security number as part of the immigration process described in §422.103(b)(3). ... All paper or other tangible documents submitted as evidence must be originals or copies of the original documents certified by the custodians of the original records and are subject to verification. ...

(b) Evidence of age. An applicant for an original social security number is required to submit convincing evidence of age. ... Examples of the types of evidence which may be submitted are a birth certificate, a religious record showing age or date of birth, a hospital record of birth, or a passport. (See

§404.716.)

(c) Evidence of identity. (1) If you apply for an original Social Security number or a replacement Social Security number card, you are required to submit convincing evidence of your identity. Evidence of identity may consist of a driver's license, identification card, school record, medical record, marriage record, passport, Department of Homeland Security document, or other similar evidence serving to identify you. The evidence must contain sufficient information to identify you, including your name and: (i) Your age, date of birth, or parents' names; or (ii) Your photograph or physical description.

(2) A birth record is not sufficient evidence to establish identity for these purposes.

(d) Evidence of U.S. citizenship. Generally, an applicant for an original or replacement social security number card may prove that he or she is a U.S. citizen by birth by submitting a birth certificate or other evidence, as described in paragraphs (b) and (c) of this section, that shows a U.S. place of birth. ...

STATEMENT OF THE CASE

Petitioner Karl Geppert, a resident of the State of Maryland and a U.S. citizen, has never been issued a social security number (SSN) and has never applied for one. In 2013, at the age of 17, he applied for a REAL ID-compliant driver's license in Maryland. He complied with all application requirements, and completed a certification within the Motor Vehicle Administration's (MVA's) application form which states: "I certify under the penalty of perjury that I do not have or I am not eligible for a soc. sec. num."

Despite this certification, MVA employees refused to process Geppert's application and administer the written driver's license exam. The MVA rejected its *own* certification form as verification of "ineligibility" for an SSN, and claimed Geppert made a false statement or committed fraud when he certified that he had no SSN or was ineligible for one.

The MVA's rejection began a seven-year odyssey through the court system. At the first hearing, the administrative law judge (ALJ) found the certification form Geppert signed was "satisfactory documentary evidence" of ineligibility under Maryland law because Geppert complied with the prescribed application requirements and regulations. The ALJ directed the MVA "should issue a learner's permit to Karl Evan Geppert ... based on [his] application." The MVA did not appeal this final agency decision, but continued to refuse to administer the written exam to Geppert so he could be issued a license.

Geppert filed a mandamus action in circuit court to compel the MVA to administer the written exam pursuant to the ALJ's order. In those proceedings, the MVA suggested for the first time that its published regulation and the application certification did not conform to Maryland law. On this ground, the circuit court reversed the ALJ. On appeal, Maryland's Court of Special Appeals reversed the circuit court in favor of Geppert, finding that an unappealed ALJ order was a final judgment which could not be collaterally attacked in a mandamus action on grounds never raised before the ALJ.

On appeal to Maryland's highest court, the Court of Appeals held that the ALJ's final,

unappealed judgment could be overturned, even in a separate mandamus action, if it was legally incorrect. The Court of Appeals further ruled that despite its continuous publication online and in print until 2018, the regulation in question had been repealed before Geppert applied — an issue raised in its court by the MVA for the first time. But the crux of the court’s finding that Geppert was not entitled to mandamus was twofold: (a) the fact that Geppert has never applied for an SSN, and (b) its legal conclusion that despite never applying, Geppert was eligible for an SSN.²

REASONS FOR GRANTING THE WRIT

Under Maryland driver’s license statutes implementing the minimum issuance standards of the REAL ID Act, a person with lawful status in the United States may only qualify to sit for a written examination to obtain a State driver’s license if he supplies “satisfactory documentary evidence,” either showing a social security number (SSN) assigned to him, or showing he is ineligible for an SSN.

Applying these laws and a Motor Vehicle Administration (MVA) license application form implementing them, the Maryland Court of Appeals held that Karl Geppert — a U.S. citizen who certified that he has no SSN or is ineligible for one — has no

² The Court of Appeals stated that the computer application form “deviated from the law by using the conjunction ‘or’ rather than ‘and,’” such that the MVA application’s certificate of ineligibility should read “I certify under the penalty of perjury that I do not have *and* I am not eligible for a soc. sec. num,” in order to meet the satisfactory documentary evidence requirement for a license.

clear legal right to sit for a driver's license examination in Maryland because he is *eligible* for a SSN despite the fact that he has never applied for one.

The effect of this ruling is that Geppert is barred from pursuing the due process requirements to obtain a State license; he will be unable to qualify for a license unless he first applies for a federal SSN.

Since no federal or State law *requires* any person in the United States to apply for an SSN, the Court of Appeals' decision creates a legal requirement where neither Congress nor the State legislature has created one. The SSN is a federal number and is assigned pursuant only to federal laws and administration. The REAL ID Act requires States implementing the Act only to require "verification" from a person ineligible for an SSN in order to obtain a REAL ID compliant license. Accordingly, the Court of Appeals erroneously applied the provisions of State law implementing the REAL ID Act. In making its ruling, it violated the Supremacy Clause of the Constitution and denied Geppert the statutory due process steps to obtain a State privilege.

This case involves the nexus of the Social Security Act of 1935, as amended, the REAL ID Act of 2005, and State statutory application requirements for driver's licenses. Petitioner has found no cases addressing this conflict of state and federal law, and submits that this is a case of first impression. Accordingly, Petitioner first provides a brief overview of the relevant points from the Social Security Act (as amended), the REAL ID Act, and the Maryland Transportation statute, and then

demonstrates how the Court of Appeals' error creates an unconstitutional precedent which affects citizens' rights to obtain a State REAL ID for federal purposes, or in Maryland's case, prevents a citizen from obtaining any driver's license at all.

The federal scheme: participation
in social security benefits is voluntary

In 1934, Congress passed a first social security act tied to the federal power over interstate commerce. The constitutionality of this act was challenged and this Court held that act unconstitutional in *Railroad Retirement Board v. Alton R. Co.*, 295 U.S. 330 (1935). The decision not only found that the federal government lacked the power to adopt the act, but also that a *vast array of social programs* were equally beyond the power of Congress:

The catalogue of means and actions which might be imposed upon an employer in any business, tending to the satisfaction and comfort of his employees, seems endless. Provision for free medical attendance and nursing, for clothing, for food, for housing, for the education of children, and a hundred other matters might with equal propriety be proposed as tending to relieve the employee of mental strain and worry. Can it fairly be said that the power of Congress to regulate interstate commerce extends to the prescription of any or all of these things? Is it not

apparent that they are really and essentially related solely to the social welfare of the worker, and therefore remote from any regulation of commerce as such? We think the answer is plain. These matters obviously lie outside the orbit of congressional power. *Id.*, at 368.

This Court's decision clarified that *mandating* involvement in social welfare programs is forbidden to the federal government by the Constitution. Today, it is well-established that federal social and welfare benefits are distributed only upon voluntary application by a recipient, and that no law mandates either application for or participation in federal benefit schemes.

Congress adopted another social security act in August 1935, just three months after the decision in *Alton*. The federal appellate courts were split regarding its validity, so this Court took those cases and determined the constitutional foundation for this act on the tax it laid. In *Charles C. Steward Mach. Co. v. Davis*, 301 U.S. 548 (1937), and *Helvering v. Davis*, 301 U.S. 619 (1937), this Court held the social security *tax* valid. Since the excise tax on wages (as defined in the tax law) was paid into the general fund of the Treasury and subject to appropriations like all other general public moneys, the tax was ruled constitutional. But the act did not make participation in or application for benefits mandatory. Thus, application for benefits is still voluntary, and a citizen without a number obtains one by applying for federal benefits.

Federal scheme: no eligibility for
an SSN assignment without application

There are two duties assigned to the Commissioner of Social Security which are facilitated by the assignment of SSNs: to track credits earned by workers, and to pay out benefits (42 U.S.C. § 405(c)(2)(A) and (F)). For the purpose of carrying out only those two duties, the Commissioner has authority to issue SSNs to *applicants for benefits*, see 42 U.S.C. § 405(c)(2)(B)(i)(II):

(B)(i) In carrying out the Commissioner's duties under subparagraph (A) and subparagraph (F), the Commissioner of Social Security shall take affirmative measures to assure that social security account numbers ... be assigned ...

(II) to any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from Federal funds including any child on whose behalf such benefits are claimed by another person; ...
(emphasis added)

Further, at 42 U.S.C. 405(c)(2)(B)(ii), the Commissioner is mandated to "require of applicants for social security account numbers such evidence as may be necessary to establish the age, citizenship, or alien status, and true identity of such applicants, and to determine which (if any) social security account number has previously been assigned to such individual."

Thus, any person desiring to be assigned and issued an SSN must complete an application and provide evidence of identity, age, and federal status. See, e.g., 20 C.F.R. § 422.103(b), “An individual needing a Social Security number may apply for one by completing a prescribed application and submitting the required evidence.” Describing how numbers are assigned, 20 C.F.R. § 422.103(c)(1) states “If you complete a prescribed application, we will require you to furnish evidence, as necessary, to assist us in establishing your age, U.S. citizenship or alien status, true identity, and previously assigned Social Security number(s), if any.”

Finally, the Social Security Administration has explicitly defined through regulations what makes a person “eligible” for an SSN. The regulation at 20 C.F.R. §422.104 provides: “(a) *Persons eligible for SSN assignment.* We can assign you a social security number if you meet the evidence requirements in §422.107 and you are: (1) A United States citizen; ...” The regulation at §422.107 provides that “We will not assign a Social Security number or issue an original or replacement card unless we determine that you meet all of the evidence requirements.” In addition to an in-person interview for a citizen who is older than 12 and applying for an original number, the SSA requires original official documents as evidence of age, identity, and citizenship, and must supply a photograph or physical description.

Thus, application for a federal SSN is voluntary, by application, and the only way in which a person becomes “eligible” for an SSN is by applying

and providing all documents (and interview) necessary to be assigned a number.

Finally, since the Commissioner “shall take affirmative measures to assure that social security account numbers ... be assigned” to applicants, it follows that the Commissioner always issues numbers to *everyone* who applies and complies with all required information, with the exception of foreigners unauthorized to work in the United States, who are ineligible even if they apply. Thus, *all* persons who have applied and are able to lawfully work in the U.S. are eligible and are issued such numbers, and all persons who have not applied are indisputably *ineligible* and are not issued numbers.

Federal scheme: REAL ID Act requires
verification of ineligibility

The REAL ID Act of 2005 mandates *federal* agencies not to accept state driver's licenses for *federal* “official purposes” unless a State has complied with its requirements, which include minimum security features and information to appear on the license. One of the key purposes of the Act was to ensure that only persons lawfully present in the U.S. would gain access to federal buildings and airplanes. The Secretary of Homeland Security (DHS) is tasked with determining State compliance according to DHS regulations. § 202(a)(2).

In prescribing the statutory procedures to be adopted by the States for the federal purpose-licenses, the REAL ID Act § 202(c)(1)(C) defines a *different procedural requirement* for persons with SSNs than for persons without SSNs. Persons *with* are to provide “proof” of their social security account number, while persons *without* are to provide

“verification” of their ineligibility for a number. “Proof,” according to *Black’s Law Dictionary*, 7th Ed., is “an attested document that constitutes legal evidence.” DHS promulgated final rules to determine if a State is compliant with this requirement, including documents DHS considers minimum *proof* of SSN, at 6 C.F.R. § 37.11(e).

By contrast, “verification,” is “a formal declaration made in the presence of an authorized officer ... by which one swears to the truth of the statements in the document.” *Id.* DHS has promulgated *no* rules re the verification requirement for those ineligible for SSNs; the law itself is clear that only a declaration of the applicant himself is requisite. Further, 6 C.F.R. § 37.11(b) mandates the State to require an applicant to “sign a declaration under penalty of perjury that the information presented on the application is true and correct.”

Most importantly, the REAL ID Act did not create a new requirement to apply for SSNs, and requires only that States obtain a affidavit or certification of ineligibility, such as that signed by Geppert, in order to issue a federal-purpose compliant license. This was recognized by the Court below (Appx. 39), but it simultaneously erroneously determined that Geppert *was* eligible for an SSN (thus such certification would be unavailing for him).

Maryland scheme: “satisfactory documentary evidence” equals “verification”

MD Code, Transportation, § 16-103.1(11) and § 16.106(c), see *supra*, were passed to implement the provisions of the REAL ID Act. In implementing the minimum issuance standards re the SSN or ineligibility for an SSN, the Maryland legislature

substituted the words “satisfactory documentary evidence” for the terms “proof” and “verification.” Notably, while a list of satisfactory documentary evidence is provided in the law commensurate with the requirements of the REAL ID Act and its regulation, no indication of what “satisfactory documentary evidence” may show ineligibility is indicated in the statutes. Yet for every person lawfully in the United States, meeting this documentary requirement is a prerequisite to obtaining a license in Maryland.

Although vague, Maryland’s REAL ID requirement for “satisfactory documentary evidence” that an applicant is ineligible for an SSN is clearly met by the certification provided on the MVA application form which Geppert signed. Again, this was recognized by the Court below (Appx. 39). Moreover, it should be apparent that since Geppert had no SSN, he could not logically be eligible for one, as all those eligible for SSNs are issued such numbers. In light of the voluntary nature of application for SSNs, even a simple certificate stating “I do not have a social security number” is sufficient to establish ineligibility.

Erroneous decision of court below
violates the Constitution

Instead of pursuing any analysis of the federal law and federal requirements for social security numbers, the Court found that Geppert “does not have a social security number even though he is eligible for one, and therefore [he] has not satisfied the statutory SSN requirement [the “satisfactory documentary evidence” that he is ineligible under Maryland law].” In doing so, the Court of Appeals

clearly created a new federal rule, not found in the State or federal statutes, that citizens or others lawfully in the U.S. must nevertheless apply for social security numbers from the federal government before they will be allowed to pursue the statutory steps to obtaining a State driver's license. The Court of Appeals thus applied the Maryland law as "requir[ing] a social security number as a prerequisite to a driver's license." Appx. 41. Federal law pre-empts State law, however, and thus the Maryland courts unconstitutionally applied the Maryland law to create a State requirement for a federal number to obtain a ID for federal use.

It is indisputable that the thrust of the REAL ID Act as implemented by the States is for *federal* purposes only, and that Act does *not* provide that the States may create new federal obligations for their citizens for a license exclusively issued by the State. Accordingly, the Maryland Court of Appeals, by erroneously applying Maryland law, violated the Supremacy Clause, and deprived Geppert, a U.S. citizen, of the statutory due process due him to obtain a State privilege. The Court also violated the Fourteenth Amendment by enforcing the law such that it violated equal protection for Geppert. Where the minimum issuance standards include citizens both with and without SSNs, and a citizen meets the verification requirement, neither the State court, nor the legislature, has jurisdiction to deny issuance of licenses to citizens without SSNs while favoring citizens with SSNs.

In *Printz v. United States*, 521 U.S. 898, 925 (1997), this Court affirmed its holding in *New York v. United States*, 505 U.S. 144, 188 (1992), that the federal government may not compel the States "to

enact or administer a federal regulatory program” under the system of dual sovereignty established by the Constitution. It seems equally clear that even though the States have retained sovereignty over many matters, including the issuance of licenses, that same dual sovereignty does not allow the States to enact or administer a federal regulatory program without explicit authorization from the federal government. Without this Court’s correction, the States will continue to deprive U.S. citizens without SSNs of access to federal buildings and airplanes by refusing them State licenses that are REAL ID compliant. In Maryland, as well as other States, this means such citizens are denied a State privilege as well. But in some States, such as Tennessee and Ohio, a two-tier license system is in place, where citizens with SSNs are offered REAL ID compliant licenses, but citizens without SSNs are only able to obtain non-compliant State licenses, depriving them of access to federal buildings and airplanes.

In sum, citizens who do not apply for voluntary federal benefits and numbers are being denied access to federally controlled areas by State administrators and courts.³ Put another way, the *States* are now compelling some U.S. citizens to apply for federal benefits in order to obtain access to federal buildings. Before this unconstitutional practice hardens into place, and the States solidify their intrusion into the federal jurisdiction (whether through legislative or judicial fiat), this Court has the power to, and should, correct it by clarifying that under federal law, citizens who do not have SSNs and have not applied for SSNs are “ineligible” for SSNs under the REAL ID Act. Further, this Court

³ Or will be starting in October of 2021.

should protect the liberty and property interests of U.S. citizens by clarifying that under the REAL ID Act, a State may only require a U.S. citizen (or any other person lawfully in the United States) to provide verification of his own ineligibility in order to meet the minimum issuance standard for a State-issued REAL ID compliant driver's license.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

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