

No. 22A_____

In the Supreme Court of the United States

STATE OF OHIO,

Applicant,

v.

JANET YELLEN, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE TREASURY, RICHARD
K. DELMAR, IN HIS OFFICIAL CAPACITY AS ACTING INSPECTOR GENERAL OF THE DE-
PARTMENT OF THE TREASURY, AND THE U.S. DEPARTMENT OF THE TREASURY,

Respondents.

*ON PETITION FOR WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT*

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

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TO THE HONORABLE BRETT KAVANAUGH, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE SIXTH CIRCUIT:

Pursuant to Supreme Court Rules 13.5, 22, and 30, the State of Ohio respectfully seeks a 60-day extension of time, until Monday, April 17, 2023, in which to file a certiorari petition seeking review of *State of Ohio v. Yellen, et al.*, 53 F.4th 983 (6th Cir. 2022) (attached at Appendix A). The Court has jurisdiction under 28 U.S.C. §1254(1), because Ohio is challenging the constitutionality of a federal law.

Counsel for the respondents has informed Ohio that the respondents do not oppose this request. And there is good cause for an extension. In particular, an extension will enable Ohio to align its case with a parallel petition. This case involves Ohio's challenge to the "Tax Mandate," which is codified at 42 U.S.C. §802(c)(2)(A). The Sixth Circuit held that Ohio's challenge was moot. On that basis, it vacated the District Court's judgment, which permanently enjoined the respondents from enforcing the Mandate against Ohio. But on the same day, in a case brought by Kentucky and Tennessee, the Sixth Circuit held that Tennessee's challenge to the Mandate was *not* moot. *Kentucky v. Yellen*, 54 F.4th 325, 329 (6th Cir. 2022). It went on to affirm an order enjoining the Mandate's enforcement against Tennessee. *Id.* at 358.

Ohio will petition for review. And Ohio *expects* the respondents to petition for a writ of certiorari in *Kentucky*, as the Sixth Circuit in that case enjoined the enforcement of a federal law. But the respondents have not confirmed whether they will seek certiorari or not. Their decision to seek review (or not) will affect the presentation of the issues in Ohio's petition. And if the respondents do seek review,

it would be most efficient for the Court to consider the cases together. An extension will allow Ohio greater ability to ensure that its petition and the respondents' proceed on a similar track.

* * *

In sum, Ohio respectfully requests that the Court extend the time in which to petition for a writ of certiorari until April 17, 2023.

DAVE YOST

Ohio Attorney General

/s/ Benjamin M. Flowers

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