No.

# In the Supreme Court of the United States

KATHRINE ANN DETWILER, GARY ROBERT KRUM, and ELAINE M. BARNHART,
*Petitioners,*

v.

COMMONWEALTH OF PENNSYLVANIA,
*Respondent.*

On Petition for a Writ of Certiorari to the Supreme Court of Pennsylvania

## PETITION FOR A WRIT OF CERTIORARI

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## QUESTION PRESENTED

In *Printz v. United States,* 521 U.S. 898 (1997), this Court held unconstitutional a federal law obligating State officials to implement a federal regulatory scheme.

The *Printz* Court noted that Congress had begun to enact statutes which indirectly required the participation of State or local officials in implementing federal regulatory schemes as a *condition of federal funding grants*, and noted that these schemes should be addressed "if and when their validity is challenged in a proper case." *Id*., at 917-918.

Petitioners were convicted in a State court due to an alleged failure to obey a local school face mask regulation promulgated in violation of State law and solely on the "authority" of the American Rescue Plan Act, which ultimately conditioned the use of COVID-19 funds upon local schools' implementation of CDC recommendations.

**QUESTION:** Where the power to regulate public health is reserved by the Tenth Amendment to the States, is it lawful for a local school board to make public health rules otherwise outside of State law, and solely pursuant to a federal regulation requiring CDC recommendations to be made mandatory rules by those boards receiving federal funds?

## LIST OF PARTIES

The caption contains the names of all parties.

## CORPORATE DISCLOSURE STATEMENT

All Petitioners are individuals.

## LIST OF DIRECTLY RELATED CASES

*Commonwealth v. Detwiler,* Case No. 15-CR-2022; *Commonwealth v. Krum,* Case No. 16-CR-2022; *Commonwealth v. Barnhart,* Case No. 92-CR-2022, Court of Common Pleas of the 26th Judicial District, Columbia County Branch, Criminal Division.

*Commonwealth v. Detwiler,* Case No. 390 MDA 2023; *Commonwealth v. Krum,* Case No. 391 MDA 2023; *Commonwealth v. Barnhart,* Case No. 392 MDA 2023, Superior Court of Pennsylvania.

*Commonwealth v. Detwiler,* Case No. 92 MAL 2024; *Commonwealth v. Krum,* Case No. 93 MAL 2024; *Commonwealth v. Barnhart,* Case No. 94 MAL 2024, Supreme Court of Pennsylvania.

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## PETITION FOR A WRIT OF CERTIORARI

Petitioners Kathrine Detwiler, Gary Krum, and Elaine Barnhart respectfully petition for a writ of certiorari to review a judgment of the Supreme Court of Pennsylvania.

## OPINIONS BELOW

The Supreme Court of Pennsylvania, Middle District denied a petition for allowance of appeal on July 23, 2024. The denial is available at 2024 Pa. LEXIS 1081, 2024 WL 3506640, and reproduced at Appendix A. The non-precedential opinion of the Superior Court of Pennsylvania is available at 313 A.3d 159, 2024 Pa. Super. Unpub. LEXIS 30, 2024 WL 50313, and reproduced at Appendix B. The order of the Common Pleas Court of Columbia County, Criminal Division is available at 2023 Pa. Dist. & Cnty. Dec. LEXIS 1844, and reproduced at Appendix C.

## JURISDICTION

The Supreme Court of Pennsylvania denied a petition for allowance of appeal on July 23, 2024. This Court has jurisdiction pursuant to 28 U.S.C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

**U.S. CONSTITUTION, Amendment X:**

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are

reserved to the States respectively, or to the people.

**U.S. CONSTITUTION, Amendment XIV:**

§ 1. ... 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.

**PENNSYLVANIA CONSTITUTION, Article II.**

**§ 1. Legislative power.**
The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.

Further State and Federal statutory and regulatory provisions involved are set forth in Appendix D, and include: the American Rescue Plan Act (ARPA), P.L. 117-2, 135 Stat. 4, § 2001; Interim Final Requirements for ARPA § 2001 at 86 FR 21195; 18 Pa. Code § 3505; 22 Pa. Code § 12.3; 24 P.S. § 2-211; 24 P.S. § 5-510; 24 P.S. § 7-701; 24 P.S. 7-775.

## STATEMENT OF THE CASE

### I. Background to the school board's masking rule.

On March 6, 2020, in response to the emerging COVID-19 pandemic, Governor Tom Wolf issued a Proclamation of Disaster Emergency pursuant to Section 7301(c) of Pennsylvania's Emergency Management Services Code. Upon declaring such

emergency, a governor is empowered to suspend the provisions of any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance with such provisions would prevent, hinder or delay necessary action in coping with the emergency. 35 P.S. § 7301(f)(1). Pursuant to the suspension power, the governor authorized the Secretary of Health "to suspend or waive any provision of law or regulation which the Pennsylvania Department of Health is authorized by law to administer or enforce, such length of time as may be necessary to respond to this emergency." *Corman v. Acting Secy. of the Pa Dep't of Health*, 266 A.3d 452, 456 (Pa. Super 2021).

The governor and health secretary issued a series of directives, including a mandate "to require all individuals to wear [face covering] masks while 'in any indoor location where members of the public are generally permitted.'" *Corman*, at 456-457.

On May 18, 2021, Pennsylvania's Constitution was amended to empower the General Assembly to terminate a gubernatorial disaster declaration by simple majority vote, without the need for presentment to the governor, and on June 10, 2021, the General Assembly so terminated the governor's fifth disaster emergency proclamation, ending the state of emergency.

On August 31, 2021, in anticipation of the statewide return in in-person learning for the 2021-2022 school year, Acting Secretary of the Pennsylvania Department of Health, Alison Beam, issued an order ("Beam Order"), effective September 7, 2021, directing "[e]ach teacher, child/student, staff or visitor working, attending, or visiting a School Entity" to wear a "face covering." *Corman*, at 458-459. Because the Beam Order was promulgated

outside of the statutorily prescribed process, and the Governor had not reinstituted a state of emergency at the time it was promulgated, the Supreme Court of Pennsylvania determined that the Beam Order was void *ab initio*. *Corman*, at 487.

Meanwhile, on August 29, 2021, the Southern Columbia Area School District Board promulgated its own face covering rule as part of its plan for a return to in-person learning for the 2021-2022 school year, despite the fact that no State disaster emergency existed, having been terminated, and not reinstated, on June 10, 2021, and despite that fact that the General Assembly has not delegated any authority over public health measures to local school boards.

Despite the lack of any statutory or regulatory authority, the Board adopted a Health and Safety Plan ("Health Plan") mandated by the federal American Rescue Plan Act, 117-2, 135 Stat. 4, §2001(i)(1) ("ARPA"). Specifically, the Health Plan was adopted to comply with the U.S. Dept. of Education's ("DoE's") interim final rule implementing §2001(i)(1), effective April 22, 2021. 86 FR 21195. ARPA required a plan to coordinate resumption of in-person instruction and activities in public schools after COVID-19 related shut-downs as a condition of receiving federal funds under the Act. The DoE rule, in turn, required that such plan implement "the safety recommendations established by the CDC," including the "[u]niversal and correct wearing of masks."[1]

Item 3.a. of the Health Plan adopted by the Board states that Southern requires the "[u]niversal and correct wearing of masks" in order to resume in person presence at Southern's school buildings. The Health Plan also stated: "The District will mandate

[1] See Interim Final Rule, App. 46a–47a.

masking in all buildings for all students, staff, and visitors regardless of vaccination status."[2]

In sum, at the time of the Board's promulgation of its face mask rule, imposed on public attendees of its meetings on school grounds, the only allegedly "lawful" authority therefor was the federal ARPA.

## II. The alleged criminal trepass

On September 13, 2021, Petitioners went to Southern Columbia High School to attend a Southern Columbia Area School District School Board meeting scheduled to begin at 7:00 p.m. In the school building, no signs indicated that masks were required to be worn on school grounds. Nor had the school district notified the public of any requirement to wear masks in its notices of the meeting.

As Petitioners entered the school library, Officer Townsend approached them and other citizens with a box of masks. He told the group they must wear masks *or* leave the premises. As Petitioners began discussing the validity of this directive, Superintendent Becker also approached and advised the group to wear masks *or* leave the school grounds. Within moments of making that statement, Mr. Becker instructed the public that the school board was going into executive session and told the group to move to the school cafeteria until the session was concluded. No official asked Petitioners to leave the premises at that time.

Petitioners proceeded to the school cafeteria while Officer Townsend contacted local law enforcement. Officer Spotts arrived at the cafetera some minutes later and spoke to members of the public, several of whom, both adults and children, were not wearing

[2] See App. 22a–23a.

masks. Another discussion ensued related to the legality of both the newly created school district policy requiring mask wearing, and the recent Beam Order requiring masking in Commonwealth schools. Some questioned whether Officer Spotts had legal authority to enforce the school district's mask mandate. Officer Spotts acknowledged he did not know what to do, told the group he wanted to check with his chain of command on how to proceed, and left the cafeteria.

After he left, Petitioners briefly talked with Officer Townsend regarding the Beam Order, and then left the school grounds on their own initiative at approximately 7:35 p.m., 13 to 14 minutes after the initial arrival of Officer Spotts, and before he returned.

The Columbia County District Attorney's Office initially decided not to file any charges against Petitioners, but Superintendent Becker demanded charges be filed. Approximately six weeks after the incident, a single charge of Defiant Trespass, 18 Pa. Code § 3503(b)(1)(v) was filed against each Petitioner.

On June 17, 2022, at Petitioners' habeas corpus hearing, the district attorney stipulated that "there was no personal directive given to any or each of the three Petitioners individually." Despite this stipulation that no school official or law enforcement officer gave direct and actual notice to the Petitioners to leave the school premises, the trial judge found the Commonwealth had met its burden and permitted the consolidated cases to move to trial.

## III. Proceedings in the trial and appellate courts of Pennsylvania.

Petitioners' jury trial was held on January 13, 2023, thirteen months after the Supreme Court of Pennsylvania ruled that the Beam Order was promulgated in violation of the law and *void ab initio*.

In addition to arguing that no direct, personal, or "actual communication to the [Petitioners] to leave school grounds"[3] was ever made during the school incident, and that they left on their own initiative after Officer Spotts departed to seek clarification from his superiors, counsel for Petitioners sought to establish a defense under 18 Pa. Code § 3503(c)(2)[4] that "the premises were at the time open to members of the public and the actor complied with all *lawful* conditions imposed on access to or remaining in the premises." (emphasis added).

Counsel argued and sought a jury instruction to the effect that the school board was *without* lawful authority to impose face masking as a condition for access to or remaining on the school grounds, especially if the board had relied upon the Beam Order. Petitioners' defense was that they were in full compliance with all *lawful* conditions, in that school officials lacked legal authority to command them to leave because the mask rule exceeded the board's lawful authority.

At trial, the judge gave an oral instruction on the law to the jury, misstating the scope of legal authority delegated by the legislature to local school

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[3] 18 Pa. Code § 3503(b)(1)(v), App. 55a.

[4] App. 55a.

boards[5] to erroneously include the promulgation of a mask mandate:

> The legislature has delegated to the board of school directors of any school district the power to permit use on the school grounds and buildings for certain proper purposes under such rules and regulations as the board may adopt. The mask mandate adopted by the Southern Columbia Area school board on August 29, 2021, was a lawful exercise of that authority at that time and continuing through into September 13, 2021.

Petitioners' defense, that the mask rule was not a lawful condition because it exceeded the board's authority, was thus barred by the trial court, and Petitioners were convicted in violation of their Fourteenth Amendment right not to be deprived of liberty without due process.

In the trial court's post-conviction opinion, the authority for the board's mask mandate condition for remaining on school grounds was admitted as having been directly promulgated under the mandate of the federal American Rescue Plan Act.[6]

Despite acknowledging that the board made the rule in accordance with its ARPA requirement to implement CDC guidance for the public health issue of COVID-19, the trial court opined that the school board had legal authority to fashion public health mandates under, variously, the school board's authority to make reasonable rules concerning the

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[5] That authority is contained in Pennsylvania's Public School Code of 1949, P.L. 30, No. 14, as amended.

[6] *See* App. 23a, 25a, 29a.

extra-curricular "use" of its buildings for "social, recreation, and other proper purposes," its authority to provide, equip, and maintain the buildings themselves in a healthful manner, and its authority to set up safety patrols of pupils to control traffic outside the schools.[7]

Upon appeal, the Superior Court of Pennsylvania adopted the opinion of the trial court, but noted again that the board's mandate was not based in any manner upon the void *ab initio* Beam Order from the Pennsylvania Department of Health, but was rather founded upon the CDC's recommendations as required by ARPA § 2001(i)(1).[8]

Petitioners' petition for an allowance of appeal to the Supreme Court of Pennsylvania was denied.

## REASONS FOR GRANTING THE WRIT

Historically, during epidemics in the United States, it is the State governments who responded by imposing disease control measures, such as quarantines, vaccination, and even face masks. The foremost case regarding the powers State governments and their officials have during epidemics is *Jacobson v. Massachusetts*, 197 U.S. 11 (1905). *Jacobson* affirmed that the police power to protect the public health, safety and welfare is *reserved* to the States. And as this Court stated in *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 18 (2020), "even in a pandemic, the Constitution cannot be put away and forgotten."

In the past few decades, the federal government

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[7] 24 P.S. §§ 7-701, 7-775, and 5-501. *See* opinion at App. 31a.

[8] *See* App. 5a, 16a.

has been increasingly using taxpayer money to implement federal regulatory schemes in the States. When the world was struck by the COVID-19 pandemic in early 2020, Congress passed ARPA, supplying over $122 billion in federal funding to States for their local schools. The U.S. Department of Education ("DoE"), by final rule, forced those local school districts to implement CDC guidelines as a condition of funding, in direct violation of the Tenth Amendment and the dual sovereignty doctrine. Even though school districts were not legally required to follow CDC guidance during the pandemic, the States were only allowed to distribute this federal funding to school districts that implemented a health plan following CDC guidelines.

Here, the lower courts decided that a public health mandate which derived its authority only from a *federal* requirement under ARPA was a lawful mandate upon which to order Petitioners to leave a public meeting. Further, they held it was a sufficient condition to convict Petitioners of criminal trespass when they debated its legality for about a half hour before leaving the school premises on their own initiative.

ARPA's requirement that a school district implement CDC guidelines could not be obeyed except in violation of the laws of the Commonwealth of Pennsylvania. The Southern Columbia School District's implementation of a masking requirement required by ARPA and the DoE in order to attend a public school board meeting thus led to a direct violation of Petitioners' Fourteenth Amendment right to due process.

Without this Court's grant of *certiorari* to consider the federal intrusion of State sovereignty via regulations imposed on local State agencies, federal agencies will continue to use federal funding

to bypass or circumvent State laws and require local agencies to implement unconstitutional regulatory schemes, in direct violation of the Tenth Amendment and the dual sovereignty doctrine.

## I. The local school board had no legal authority under State law to promulgate an order to control the health of the public.

The local school board's Health Plan which mandated the wearing of face coverings of all public members in school buildings was clearly a public health measure, meant to control the spread of disease. Such measures are entrusted under Pennsylvania law to the Department of Health, not to local school boards. The Department of Health's order implementing the same type of public health measure was declared, however, to be void *ab initio*, leaving the local school board without any legal authority to impose a face mask mandate.

All legislative power in the Commonwealth is vested in the General Assembly. Pennsylvania Constitution, Art. II, § 1. The Assembly has in turn delegated authority to the governing boards of the schools "to make reasonable and necessary rules governing the conduct of students in school," but the "rulemaking power ... must operate within statutory and constitutional restraints. A governing board has only those powers that are enumerated in the statutes of the Commonwealth, or that may reasonably be implied or necessary for the orderly operation of the school." 22 Pa. Code § 12.3(a). "Governing boards may not make rules that are ... outside their grant of authority from the General Assembly." 22 Pa. Code § 12.3(b).

The courts below admitted that the Pennsylvania Department of Health's public health measure (Beam

Order) imposing face masking was void *ab initio*. Thus, the courts below sought in vain to find some alternative authority for imposing a public health measure meant to control the spread of a disease within the existing powers delegated to local school boards by the General Assembly. They identified just three possible provisions for this alternative authority: 24 P.S. §§ 7-701, 7-775, and 5-510. It is abundantly clear that the power to declare public health measures to control disease is neither expressly stated nor implied in the only provisions the courts could find.

First, 24 P.S. § 7-775 provides that boards of school directors may "permit the use of school grounds and buildings for social, recreation, and other proper purposes, under such rules and regulations as the board may adopt." This includes providing the buildings for various governmental meetings. Pennsylvania's Statutory Construction Act, 1 Pa.C.S. §§ 1901 *et seq*., provides that the best indication of legislative intent is the plain language of the statute. The statute, of course, does not provide for the imposition of public health mandates upon individuals, but merely provides that the tax-paying public may use the buildings they built under reasonable rules related to the "use" of the buildings.

Second, 24 P.S. § 7-701 provides only that the boards of school directors may construct, equip, and maintain school buildings, including providing proper ventilation, fuel, and safe water for the benefit of the pupils. Third, 24 P.S. § 5-510 provides only that the school boards may set up safety patrols, comprised of students, to monitor the safety of pupils walking to the school. None of these legislative grants of authority contain even an implication that school boards may, on their own authority, determine

and impose disease control measures for the general public.

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**II. The local school board promulgated its public health measure pursuant to a federal law and its regulation.**

The superintendent, at trial, freely acknowledged that the public health mask mandate was promulgated by the local school board because it was mandated by the federal ARPA §2001(i)(1), P.L. 117-2, 135 Stat. 4. That section conditioned receipt of federal funds on the development of a plan for "safe return" to in-person instruction in public schools after COVID-19 related shut-downs:

> A local educational agency receiving funds under this section shall develop and make publicly available on the local educational agency's website, not later than 30 days after receiving the allocation of funds described in paragraph (d)(1), a plan for the safe return to in-person instruction and continuity of services.

In implementing a final rule to carry out this statutory requirement, the DoE further mandated what would be required in the "plan" mandated by ARPA:

> An LEA must describe in its plan under section 2001(i)(1) of the ARP Act for the safe return to in-person instruction and continuity of services—
> (i) how it will maintain the health and safety of students, educators, and other staff and the extent to which it has adopted policies,

> and a description of any such policies, *on each of the following safety recommendations established by the CDC*:
> (A) *Universal and correct wearing of masks*.
> (B) Modifying facilities to allow for physical distancing ( *e.g.,* use of cohorts/podding). ... [9]
> (emphasis added)

The CDC's *mere safety recommendations* regarding public health matters (reserved to the jurisdiction of the States) do not have the force of law. When the DoE adopted them as part of a mandatory regulation conditioned on the receipt of federal funds, however, those recommendations were transmogrified into a federal public health regulation having the force of law.

This federal public health regulation further acquired the apparent force of law when the Southern Columbia Area School District Board adopted it in Item 3.a. of its Health Plan of August 29, 2021, stating that the school district requires the "[u]niversal and correct wearing of masks" to be present in Southern's school buildings. The Health Plan further stated: "The District will mandate masking in all buildings for all students, staff, and *visitors* regardless of vaccination status." (emphasis added).

Petitioners felt the force of that federal law when they were arrested, prosecuted, and convicted in a State court by State officials, on grounds that they violated what amounts to a federal public health regulation adopted by the local school board without any State authority.

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[9] These are not all the requirements; they are reproduced at App. 47a.

Ultimately, Petitioners' liberty was taken away based on a federal agency recommendation not having the force of law, a recommendation upon a subject reserved to State jurisdiction, and not to federal enforcement. This crossing of the State sovereignty line caused Petitioners to be convicted in violation of their Fourteenth Amendment right to due process — prosecuted on the basis of what would be an unconstitutional federal regulation if passed directly by Congress.

Since the school premises were "at the time open to members of the public" and the Petitioners "complied with all *lawful* conditions imposed on access to or remaining in the premises," only failing to comply with a *de facto* unlawful federal public health regulation, Petitioners could not be convicted under 18 Pa. Code § 3503.

Petitioners cannot be guilty of criminal trespass because the federal public health regulation ostensibly adopted by the school board was an unconstitutional exercise of federal authority. They were convicted of not complying with an unconstitutional condition.

## III. The school board's unlawful imposition of a federal public health regulation violates the Tenth Amendment.

It has long been recognized that the power to protect the public health, safety and welfare is not an enumerated power of the federal government under the U.S. Constitution, but a police power reserved to the States by the Tenth Amendment:

> The authority of the State to enact [public health measures] is to be referred to what is commonly called the police power — a power

> which the State did not surrender when becoming a member of the Union under the Constitution. Although this court has refrained from any attempt to define the limits of that power, yet it has distinctly recognized the authority of a State to enact quarantine laws and "health laws of every description;" indeed, all laws that relate to matters completely within its territory and which do not by their necessary operation affect the people of other States.

*Jacobson v. Massachusetts,* 197 U.S. at 25.

.Where the school board, without legal authority, imposed what amounts to a federal public health regulation (mandated by a federal agency) on the visitors to its meetings, the sovereign authority of the Commonwealth of Pennsylvania to establish "health laws of every description" was invaded by the federal government and the Tenth Amendment was violated. Petitioners were thus convicted as a result of a violation of the Tenth Amendment by ARPA's requirements, and the DoE's regulation implementing those requirements. Their conviction ought to be overturned.

Congress, the DoE, and even the CDC, accomplished this invasion of the jurisdiction of the States in a circuitous and indirect manner. Congress has no power to directly impose such a regulation on every local school district in the country. This Court has affirmed the maxim that what cannot be done directly cannot be done indirectly. *Cummings v. Missouri*, 71 U.S. 277, 288 (1866).

## IV. The school board's unlawful imposition of a federal public health regulation violates the dual sovereignty doctrine.

In *Printz v. United States*, 521 U.S. 898 (1997), this Court held unconstitutional a federal statute obligating State law enforcement officers to implement a federal gun-control law. In so doing, this Court stated that it is incontestible that the Constitution is based on a system of "dual sovereignty," citing, *e.g., Gregory v. Ashcroft,* 501 U.S. 452, 457 (1991). *Id.*, at 919. Even though the States surrendered many powers to the new federal government, they retained a "residuary and inviolable sovereignty" reflected throughout the Constitution's text. *Id.*

The federal government may not directly commandeer State officials in enforcing its regulatory schemes. "The power of the Federal Government would be augmented immeasurably if it were able to impress into its service — and at no cost to itself — the police officers of the 50 States." *Id.* at 922. Here, the Federal Government not only impressed school board officials into its service on the mere receipt of federal funds, but hijacked the local district attorney, police officers, and the entire apparatus of the State courts into its service to prosecute and punish transgressors of, at bottom, mere *recommendations* of the CDC concerning the control of COVID-19. Pennsylvania alone has approximately 500 school districts, to multiply this by all 50 States gives some indication of how widespread and complete this violation of dual sovereignty was spread. How many people in the United States have now lost their liberty by being prosecuted or convicted for refusing to follow CDC guidelines?

In *Printz*, this Court further noted that Congress had begun to enact statutes which required the participation of state or local officials in implementing federal regulatory schemes as a condition of federal funding grants. Such enactments were not before the *Printz* court; thus, it reserved consideration of such cases "if and when their validity is challenged in a proper case." *Id.*, at 917-918. Here, the passage of ARPA conditioned the use of funds granted to local schools to mitigate the effects of COVID-19 upon local school officials' participation in a federal public health regulatory scheme. Now is the time for this Court to address this issue, particularly where the Federal Government has encroached on the sovereign powers of the States, reserved to them by the Tenth Amendment.

Just as this Court sent the issue of abortion back to the jurisdiction of the States, where it belongs, in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022), so too this Court should restore the regulation of public health back to the police power of the States.

The State courts' ruling that the Southern Columbia School District's masking requirement under ARP was lawful must be reversed. Failure to do lets stand a dangerous precedent, allowing the federal government to implement federal regulatory schemes, such as requiring school districts to comply with CDC regulations, even when those regulatory schemes require school districts to violate their own State's laws.

## CONCLUSION

Petitioners respectfully request this court to grant the writ.

Respectfully submitted,

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