

IN THE
Supreme Court of the United States

CENTERVILLE CLINICS INC.,
Petitioner,

v.

JANE DOE, on behalf of herself and
all others similarly situated,

Respondent,
and

UNITED STATES,
Respondent.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Third Circuit

PETITION FOR REHEARING

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PETITION FOR REHEARING

Petitioner Centerville Clinics, Inc. respectfully petitions for rehearing of this Court’s March 24, 2025 Order denying its petition for a writ of certiorari.

By separate motion accompanying this petition, Petitioner further requests that the Court defer consideration of this petition pending resolution of proceedings in *Blumberger v. Tilley*, No. 24-1072 (April 9, 2025), and No. 24A865 (granting Solicitor General’s application for 30-day extension to petition for a writ of certiorari) (Kagan, J.).

REASON FOR GRANTING REHEARING

Rule 44.2 authorizes a petition for rehearing based on “intervening circumstances of a substantial or controlling effect” or “other substantial grounds not previously presented.” Sup. Ct. R. 44.2. Centerville’s petition explained that the decision below was expressly rejected by, and conflicts with, the Ninth Circuit’s decision in *Blumberger v. Tilley*, 115 F.4th 1113 (9th Cir. 2024). Subsequently, the plaintiff in *Blumberger* petitioned for certiorari on April 9, 2025, citing the “direct conflict” with the decision below. Pet. for Cert. 2, *Blumberger v. Tilley*, No. 24-1072 (April 9, 2025). Any petition for certiorari by the Solicitor General in *Blumberger* is due today, April 18, 2025—the same due date for this rehearing petition. No. 24A865 (granting Solicitor General’s application for 30-day extension) (Kagan, J.).

At the core of the circuit court conflict is the issue of whether a provision of the Public Health Service Act, 42 U.S.C. § 233(l)(1), obligates the Attorney General to appear in state court and report the Secretary of the U.S. Department of Health and Human Services' prior grant of federal employee status to effectuate removal to federal court. The Ninth Circuit determined the Act imposes this obligation on the Attorney General; the Third Circuit concluded the statutory provision merely requires an appearance by the Attorney General, which, if timely, precludes the defendant from removing under 42 U.S.C. § 233(l)(2) and 28 U.S.C. 1442(a)(1). The Ninth Circuit specifically criticized the Third Circuit's decision as one that "illustrates the dangers of eliding th[e] distinction" between the determinations of two executive branch department heads to implement the Public Health Service Act's immunity provision. *Blumberger*, 115 F.4th at 1128.

Holding and then deciding Centerville's petition based on the *Blumberger* certiorari petition(s) is a relatively modest form of relief that would allow this Court to resolve a circuit split on important issues of federal law and ensure that federal courts exercise their "virtually unflagging obligation" to review executive action. *Colo. River Water Conservation Dist. v. U.S.*, 424 U.S. 800, 817 (1976); *see also Cohens v. Virginia*, 19 U.S. 264, 404 (1821) (Marshall, C.J.) ("We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given."); *cf. Stutson v. United States*, 516 U.S. 163, 181 (1996) (Scalia, J. dissenting) ("We regularly hold cases that involve the same issue as a case in which certiorari has been

granted and plenary review is being conducted in order that . . . they may be ‘GVR’d’ when the case is decided.”).

CONCLUSION

The Court should grant Centerville’s petition for rehearing if it grants the petition for certiorari in *Blumberger v. Tilley*, No. 24-1072, as that decision expressly conflicts with the Third Circuit’s decision below. Centerville has concurrently moved the Court to defer consideration of this petition pending resolution of proceedings in *Blumberger*.

Respectfully submitted,

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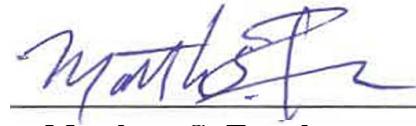
Counsel for Petitioner
Centerville Clinics Inc.

APRIL 2025

CERTIFICATE OF COUNSEL

Pursuant to Rule 44.2, I, Matthew S. Freedus, counsel for petitioner Centerville Clinics, Inc., hereby certify that the petition for rehearing is restricted to the grounds specified in Rule 44.2. I further certify that the petition for rehearing is presented in good faith and not for delay.

April 18, 2025



Matthew S. Freedus