

No. A-_____

IN THE
Supreme Court of the United States

STATE OF OKLAHOMA, ET AL.,

Applicants,

v.

UNITED STATES OF AMERICA, ET AL.,

Respondents.

**APPLICATION FOR AN EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

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

Pursuant to Rules 13.5 and 30.2 of this Court, Applicants the State of Oklahoma; the Oklahoma Horse Racing Commission; the Tulsa County Public Facilities Authority d/b/a Fair Meadows Racing and Sports Bar; the State of West Virginia; the West Virginia Racing Commission; Hanover Shoe Farms, Inc.; the Oklahoma Quarter Horse Racing Association; Global Gaming RP, LLC, d/b/a Remington Park; Will Rogers Downs, LLC; the United States Trotting Association; and the State of Louisiana (collectively “Applicants”) respectfully apply for a 60-day extension of time, to and including May 18, 2026, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit in this case.¹ The court of appeals entered judgment on December 17, 2025. App. 1a. Unless extended, the time for filing any petition for a writ of certiorari will expire on March 17, 2026. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

1. This case presents an important question regarding the U.S. Constitution’s limits on Congress’s ability to delegate to private entities governmental rulemaking and law-enforcement powers. In 2020, Congress federalized horseracing anti-doping, medication control, and racetrack safety by enacting the Horseracing Integrity and Safety Act of 2020 (“HISA”). *See* 15 U.S.C. § 3051 *et seq.* Congress gave the principal role in creating and enforcing federal regulations under HISA to a private,

¹ No Applicant has a parent corporation, and no publicly held corporation owns 10% or more of any Applicant’s stock.

nonprofit corporation known as the Horseracing Integrity and Safety Authority (the “Authority”). *Id.* §§ 3052(a), 3053(a), 3057(d)(3)(A). This private corporation drafts the federal regulations governing horseracing safety, and the Federal Trade Commission (“FTC”) is required to “approve” any and all of the Authority’s rules as binding federal law so long as they are not inconsistent with the statute—even if the government disagrees with them for policy reasons. *Id.* § 3053(c)(2). And Congress gave the private Authority the exclusive powers to bring civil actions in federal court to enjoin violations of its rules, to investigate violations of its rules by issuing subpoenas and conducting searches, and to impose and enforce its civil sanctions. *Id.* § 3054(j)(1).

2. On April 26, 2021, Applicants filed this lawsuit, arguing that HISA violates the Constitution’s private nondelegation doctrine. The district court dismissed the case on the merits, ruling that HISA did not violate the Constitution. App. 31a-64a.

3. Applicants timely appealed. The Sixth Circuit affirmed the district court’s order and denied Applicants’ petition for rehearing en banc. Applicants petitioned for a writ of certiorari, which this Court denied on June 24, 2024. See *Oklahoma v. United States*, No. 23-402 (U.S.). On July 5, 2024—11 days after this Court denied certiorari—the Fifth Circuit held that HISA violated the private nondelegation doctrine, opening a circuit split over HISA’s constitutionality. *National Horsemen’s Benevolent & Protective Association v. Black*, 107 F.4th 415 (5th Cir. 2024). On July 18, 2024, Applicants petitioned for rehearing of this Court’s order denying certiorari. On June 30, 2025, the Court granted Applicants’ petition for rehearing, granted their petition for a writ of certiorari, vacated the Sixth Circuit’s judgment, and remanded the case to the Sixth

Circuit for further consideration in light of the Court’s decision in *FCC v. Consumers’ Research*, 606 U.S. 656 (2025). The Court also granted certiorari in cases seeking review of the judgments of the Fifth and Eighth Circuits in similar challenges to HISA’s constitutionality, vacated the judgments of those courts, and remanded those cases for further consideration in light of *Consumers’ Research*. See Nos. 24-429, 24-433, 24-465, 24-472, 24-489, 24-420 (U.S.).

4. On remand, the Sixth Circuit ordered supplemental briefing and held oral argument on November 12, 2025. App. 1a. The Sixth Circuit entered judgment affirming the district court on December 17, 2025. App. 1a, 30a.

5. “For good cause, a Justice may extend the time to file a petition for a writ of certiorari for a period not exceeding 60 days.” Sup. Ct. R. 13.5. Good cause exists here for two reasons. *First*, counsel for Applicants have significant professional obligations during the period in which the petition would otherwise need to be prepared, including oral arguments in *Statoil USA Onshore Properties, Inc. v. Irby*, No. 23-760 (W. Va.), *West Virginia v. McKinney*, No. 24-16 (W. Va.), *Wood v. Straughn*, No. 25-6842 (4th Cir.), *BERT v. Drummond*, Nos. 24-6139, 24-6140, 24-6141 (10th Cir.), and *Padres Unidos v. Drummond*, No. 25-6080 (10th Cir.); certiorari-stage briefing in *Hicks v. Frame*, No. 25-726 (U.S.), *Saadeh v. New Jersey State Bar Association*, No. 25A626 (U.S.), *RMS of Georgia, LLC v. EPA*, No. 25A748 (U.S.), *Robinson v. Vannoy*, No. 25-6549 (U.S.), and *Galbraith v. Vannoy*, No. 25-6213 (U.S.); and numerous other filings in state and federal appellate courts. *Second*, additional time is necessary here to allow counsel to address these important and complex questions of federal constitutional law,

and also to coordinate among the numerous petitioning parties, which include three States, two state racing commissions, three racetracks, two horseracing associations, and a horse-breeding farm. Applicants are not aware of any party that would be prejudiced by a 60-day extension.

Accordingly, Applicants respectfully request that the time to file any petition for a writ of certiorari be extended by 60 days, to and including May 18, 2026.

February 25, 2026

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