

Press Release

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Oklahoma Attorney General Scott Pruitt Files Petition for Certiorari with U.S. Supreme Court on ACA

OKLAHOMA CITY – Oklahoma Attorney General Scott Pruitt announced Thursday he has filed a petition for certiorari with the U.S. Supreme Court to review Oklahoma’s lawsuit challenging illegal IRS subsidies as part of the Affordable Care Act.

Earlier this month, the Supreme Court announced an identical case out of Virginia, *King v. Burwell*, was worthy of review. General Pruitt is asking that Oklahoma’s case be taken up and heard together with the corresponding case to ensure the Court hears the perspective of a sovereign state.

“It is absolutely paramount the Court takes up Oklahoma’s lawsuit to ensure state’s rights are at the table when a decision is made,” Attorney General Scott Pruitt said. “We as a state brought this to the Court’s attention from the very beginning, being the first in the nation to challenge the legality of the law. Congress empowered the states with the decision of whether to establish an exchange but the IRS has tried to circumvent that intent by allowing billions in illegal subsidies to be paid out. Such a clear overreach by a federal agency directly impacts the ability of the states to make the exchange decision as Congress intended.”

In September, a U.S. District Judge ruled in favor of Oklahoma’s lawsuit challenging the rule. The federal government appealed the district court’s order and it now is pending in the 10th Circuit. If Oklahoma’s request for a writ of certiorari to review the case is granted, the case will bypass the Circuit and go straight to the Supreme Court for review in conjunction with *King*.

As General Pruitt states in the request, “the ACA places significant weight on the decision made by the States: whether tax credits and subsidies are available to its citizens, whether large employers in the States are subject to penalties for failure to comply with the employer mandate requirements, whether many individuals are subject to the individual mandate’s penalty, and so on and so forth. Only Oklahoma – and not the individual petitioners in *King* – had to make the decision about whether to create an exchange.”

General Pruitt cites “architect of the ACA” Jonathan Gruber who said in a 2012 interview, the ACA “puts enormous power in the hands of states, to implement healthcare reform...There is a huge role for states, to actually run these exchanges, and decide how people get health insurance in these states.”

“The IRS, as a result of a policy disagreement over how most States were exercising that “enormous power,” promulgated the challenged regulations to wrest that power

away from the States, and in doing so, directly and palpably injured the States in their capacity as sovereigns,” General Pruitt stated in the petition.

Neither of the parties in *King v. Burwell* is a state nor is subject to the large employer mandate like Oklahoma.

“Oklahoma is in a unique position in this case. As a state empowered by Congress to make the decision on whether to establish an exchange, the illegal actions of the IRS directly impact our citizens. We have been on the front lines of this issue and will continue to battle to uphold the rule of law. We hope that the Court will grant our request for review to ensure the input of the states is considered when deciding this important question,” Attorney General Pruitt said.

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