No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

Donice Noëlle Smith — PETITIONER
(Your Name)

VS.

Christine Kotek — RESPONDENT(S)

PROOF OF SERVICE

I, Donice Noëlle Smith, do swear or declare that on this date, 12 OCTOBER, 2025, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Christine Kotek, Governor — Dan Rayfield Attorney Gen
900 Court St, Ste 254 — 1162 Court ST N.E.
Salem, OR 97301-4047 — Salem, OR 97301

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 12 OCTOBER, 2025

Donice Noëlle Smith
(Signature)

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

Donice Nöelle Smith — PETITIONER
(Your Name)

vs.

Christine Kotek — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Oregon Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Donice Nöelle Smith
(Your Name)

4601 Carnes Rd. ste 8 #112
(Address)

Roseburg, OREGON 97471-4600
(City, State, Zip Code)

541-530-4718
(Phone Number)

QUESTION(S) PRESENTED

1.) Did the Oregon Supreme Court err in denying the petition for quo Warranto?

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page.

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

Complaint For Quo Warranto, Marion County District Attorney. Denial Letter entered March 18, 2025.

Investigation Request No 25-060, Secretary of State Elections Division. Denial Letter and Opinion entered March 28, 2025.

Donice Noelle Smith v. Christine Kotek, S071902, Oregon Supreme Court. Order denying petition entered MAY 20, 2025

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INDEX TO APPENDICES

TABLE OF AUTHORITIES CITED

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the Secretary of State Election Div court appears at Appendix C to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[X] For cases from **state courts**:

The date on which the highest state court decided my case was May 20, 2025. A copy of that decision appears at Appendix A.

[✓] A timely petition for rehearing was thereafter denied on the following date: July 17, 2025, and a copy of the order denying rehearing appears at Appendix D.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Oregon Constitution Article II section 22
Section (1) For purposes of campaining for an elected public office, a candidate may use or direct only contributions which originate from individuals who at the time of their donation were residents of the electoral district of the public office sought by the candidate, unless the contribution consists of volunteer time, information provided to the candidate, or funding provided by federal, state, or local government for purposes of campaigning for an elected public office.

Section (2) Where more than ten percent (10%) of a candidate's total campaign funding is in violation of Section (1), and the candidate is subsequently elected, the elected official shall forfeit the office and shall not hold a subsequent elected public office for a period equal to twice the tenure of the office sought. Where more than ten percent (10%) of a candidate's total campaign funding is in violation of Section (1) and the candidate is not elected, the unelected candidate shall not hold a subsequent elected public office for a period equal to twice the tenure of the office sought.

Section (3) A qualified donor (an individual who is a resident within the electoral district of the office sought by the candidate) shall not contribute to a candidate's campaign any

restricted contributions of Section (1) received from an unqualified donor for the purpose of contributing to a candidate's campaign for elected public office. An unqualified donor (an entity which is not an individual and who is not a resident of the electoral district of the office sought by the candidate) shall not give any restricted contributions of Section (1) to a qualified donor for the purpose of contributing to a candidate's campaign for elected public office.

Section (4) A violation of Section (3) shall be an unclassified felony.

[Created through initiative petition filed Jan. 25, 1993, and adopted by the people Nov. 8, 1994]

Oregon Constitution Article VII (amended) section 2
The courts, jurisdiction, and judicial system of Oregon, except so far as expressly changed by this amendment, shall remain as at present constituted until otherwise provided by law. But the supreme court may, in its own discretion, take original jurisdiction in mandamus, quo warranto and habeas corpus proceedings.

ORS 30.510
An action at law may be maintained in the name

of the state, upon the information of the district attorney, or upon the relation of a private party against the person offending, in the following cases:

(1) When any person usurps, intrudes into, or unlawfully holds or exercises any public office, civil or military, or any franchise within this state, or any office in a corporation either public or private, created or formed by or under the authority of this state; or,

(2) When any public officer, civil or military, does or suffers an act which, by the provisions of law, makes a forfeiture of the office of the public officer; or,

(3) When any association or number of persons act within this state, as a corporation, without being duly incorporated.

STATEMENT OF THE CASE

Petitioner, a 2022 Gubernatorial candidate, sought to oust acting Oregon Governor Christine Kotek from office and be induced as the lawful Governor of Oregon via proceeding in quo warranto by serving a notarized complaint to the Marion County District Attorney. Appendix G-01 to 04. Collaterally, the District Attorney initiated an Investigation Request in the Elections Division of the Secretary of State's office whom opined that VanNatta v. Keisling, 151 F.3d 1215 (9th Cir 1998) renders Oregon Constitution Article II section 22 "not enforceable" even though it is "still printed in the Oregon Constitution". Appendix C-01. After Petitioner explained the nature of the District Attorney's role in circuit court quo warranto proceedings, the District Attorney declined initiating the proceeding. Appendix B-01. Petitioner then sought to bypass the circuit court by seeking the Oregon Supreme Court's original jurisdiction. Appendix E-04. Without recieving a memorandum in opposition, the Oregon Supreme Court denied the petition without reaching the merits. Appendix A-01. To reach the question presented, this court must reach the following important questions:

1. Did the Oregon Supreme Court have jurisdiction? Here, Petitioner was denied access to the circuit court, served respondent, and raised an issue of public

importance. Appendix E-04. See also State ex rel Boe v. Straub, 282 Or 387, 578 P.2d 1247 (1978).

2. Does Great Northern Ry. Co. v. Sunburst Oil & Refining Co., 287 US 358 (1932) provide a controlling authority for a state defining its limits of adherence to precedent?
This question was first raised in petitioner's complaint served to Marion County District Attorney. Appendix G-02. Then subsequently in the Memorandum of Law to identify "the end period for adherence to Vannatta v. Keisling, 324 Or. 514 (1997)" and that the Oregon Supreme Court "abandoned facial challenges to campaign contribution laws while having never considered the federal line of VANNATTA cases". Appendix F-05.

3. Does VanNatta v. Keisling, 151 F.3d 1215 (9th Cir. 1998) affect enforcement of Oregon Constitution Article II section 22?
This question was first raised as a conclusion of law within the Oregon Secretary of State Elections Division's quasi-judicial opinion regarding petitioner's complaint served to the Marion County District Attorney. Appendix C-01. Petitioner attacked this conclusion of law throughout the Memorandum of Law by identifying the lack of adherence in Oregon Appellate Courts, that the case had been overturned by implication, and resulted from a prejudiced Majority. Appendix F.

4. Did the Oregon Supreme Court violate the Fourteenth Amendment of the United States Constitution's requirement on state action? The question presented is one of liability governed by the Fourteenth Amendment's requirement on state action. 28 USCS § 1257(a) confers jurisdition if the question upon case made by Petitioner was essentially one as liability governed by federal act, Supreme Court has jurisdiction even though petition makes no reference in terms to statute; see Jones Nat'l Bank v. Yates, 240 US 541, 36 S. Ct. 429, 60 L. Ed 788 (1916).

28 USCS § 1257(a) confers jurisdiction on the Supreme Court where federal questions will survive final judgment causing future litigation on the issue. See e.g., Moore v. Harper, 143 S. Ct. 2065, 2070, 216 L. Ed. 2d 729 (2023); see also Lynk v. La Porte Superior Court No 2, 789 F. 2d 554 (7th Cir. 1986) (Jurisdiction of Supreme Court does not depend on whether state court addressed federal question; it is enough that federal claim was made and not accepted.). Furthermore, the Oregon Secretary of State Election Division's collateral quasi-judicial opinion confers jurisdiction on the Supreme Court. See Murray v. Joe Gerrick & Co., 291 US 315, 54 S. Ct. 432, 78 L Ed 821 (1934) (Averment in petition for certiorari that state court misconstrued act of congress conferred jurisdiction on Supreme Court.).

Supreme Court Rule 10 confers jurisdiction upon this

court because Oregon Supreme Court's decision regarding First Amendment facial challenges to campaign contribution laws conflicts with the 9th Circuit Court of Appeals decision affirming a First Amendment facial challenge to an Oregon Constitutional provision and draws into question whom has the controlling authority over the Oregon Constitution.

REASONS FOR GRANTING THE PETITION

Certiorari is granted only in cases involving principles the settlement of which is of importance to public as distinguished from parties, and in cases where there is real and embarrassing conflict of opinion and authority between courts of appeals. NLRB v. Pittsburgh S.S. Co., 340 US 498, 71 S. Ct. 453, 95 L. Ed. 479 (1951). This case involves principles of federalism even acknowledged in Vannatta v. Keisling, 324 Or 514, 525-526 (1997). The Conflict of opinions from the Oregon Supreme Court and 9th Circuit Court of Appeals is real. The conflict of authorities between the Oregon Supreme Court as the final arbiter of the Oregon Constitution and the 9th Circuit's authority from congress to void the Oregon Constitution without the Oregon Supreme Court involvment is real. It is embarrassing that the Oregon Secretary of State does not follow the Oregon Supreme Court. Please see Murray v. Joe Gerrick & Co., 291 US 315, 54 S. Ct. 432, 78 L Ed 821 (1934) (Averment in petition for certiorari that state court misconstrued act of congress conferred jurisdiction on Supreme Court.). Current and future elected officials both state and federal can expect duplicate litigation unless this court resolves the question presented.

Duplicate litigation has been met with equal result, in the Oregon Supreme Court, against U.S. Senator Ron Wyden (S071813) and U.S. Congress Women Valerie Hoyle (S071904). The important questions in this case need to be resolved in advance of Oregon's December 1st, 2025, deadline to certify it's current election.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Donice Noelle Smith

Date: 12 OCTOBER 2025