

No. \_\_\_\_\_

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In The  
**Supreme Court of the United States**

—◆—  
HELIX TCS, INC.,

*Petitioner,*

v.

ROBERT KENNEY,

*Respondent.*

—◆—  
**On Petition For Writ Of Certiorari  
To The United States Court Of Appeals  
For The Tenth Circuit**

—◆—  
**PETITION FOR WRIT OF CERTIORARI**

—◆—  
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## QUESTION PRESENTED

Marijuana is a Schedule 1 controlled substance under the Controlled Substance Act (“CSA”). 21 U.S.C. § 812. Consequently, the federal government, as a matter of course, does not extend federal benefits to those associated with the marijuana industry. However, in the case at bar, the Tenth Circuit held that an individual trafficking marijuana within Colorado’s legal marijuana industry may bring a private action under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.*, to recover federally mandated overtime pay for conduct that violates the CSA. In reaching this conclusion, the Tenth Circuit ruled that individuals have a private property interest in the proceeds of federal drug crimes and that a federal court may award them compensation out of those proceeds for their efforts in trafficking Schedule 1 drugs.

The Tenth Circuit’s decision deepens the confusion, conflict, and lack of uniformity between state and federal law regarding federal rights and protections accorded to those participating in the marijuana industry. In the absence of congressional action, which is not anticipated any time soon, this Court should rule that an individual perpetrating a federal drug crime is not entitled to federally mandated compensation for their efforts.

The question presented is:

Whether the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, confers a private right of action to recover minimum wages for conduct that violates the Controlled Substances Act, 21 U.S.C. § 812.

## **PARTIES TO THE PROCEEDINGS**

Petitioner Helix TCS, Inc. was Defendant-Appellant below.

Robert Kenney was Plaintiff-Appellee below.

## **RELATED CASES**

- *Kenney v. Helix TCS, Inc.*, No. 1:17-cv-01755, U.S. District Court for the District of Colorado. Order denying Helix's Motion to Dismiss entered on January 5, 2018.
- *Kenney v. Helix TCS, Inc.*, No. 18-1105, U.S. Court of Appeals for the Tenth Circuit. Judgment entered on September 20, 2019.

## **RULE 29.6 DISCLOSURE**

The following entities own ten percent (10%) or more of Helix TCS, Inc. stock:

Helix Opportunities LLC  
RSF4, LLC

## TABLE OF CONTENTS

	Page
QUESTION PRESENTED.....	i
PARTIES TO THE PROCEEDINGS .....	ii
RELATED CASES .....	ii
RULE 29.6 DISCLOSURE.....	ii
PETITION FOR A WRIT OF CERTIORARI .....	1
OPINIONS BELOW.....	1
JURISDICTION.....	1
STATUTORY PROVISIONS.....	1
STATEMENT OF THE CASE.....	2
REASONS FOR GRANTING THE PETITION .....	3
I. The Question Presented is of Nationwide Importance Given the Growing Marijuana Industry and Confusion Surrounding the Applicability of Federal Law .....	6
a. The booming marijuana industry.....	7
b. Federal benefits and protections are not, as a matter of course, extended to the marijuana industry .....	9
c. Confusion relating to federal law and policy applicable to the marijuana in- dustry .....	14
d. The marijuana industry is barred from federal relief during the COVID-19 ep- idemic despite being deemed “essen- tial” by states.....	20

## TABLE OF CONTENTS—Continued

	Page
e. By addressing the question presented, the Court will be able to provide much needed clarity and relief from uncertainty .....	22
II. The Court Should Correct the Unintended Consequences of the Tenth Circuit’s Opinion .....	22
a. The Tenth Circuit’s opinion vests in criminals a personal property right to the proceeds of their illicit conduct in conflict with decisions of this Court....	23
b. The Tenth Circuit’s order requires different results in different states and precludes the uniform application of federal law to different states in the country.....	24
CONCLUSION.....	26

## APPENDIX

Tenth Circuit Appeal; <i>Helix TCS, Inc. v. Kenney</i> ; 18-701 .....	App. 1-13
Tenth Circuit Order; <i>Helix TCS, Inc. v. Kenney</i> ; 18-701 .....	App. 14-15
Order Granting Defendant’s Motion for Certification of Appeal of the Court’s Order Denying Defendant’s Motion to Dismiss; <i>Kenney v. Helix TCS, Inc.</i> ; 17-cv-01755-CMA-KMT .....	App. 16-21

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