

No. 19-677

In the Supreme Court of the United States

DAVE YOST AND JOSEPH DETERS,

Petitioners,

v.

PLANNED PARENTHOOD SOUTHWEST
OHIO REGION, ET AL.,

Respondents.

*ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT*

**SUPPLEMENTAL BRIEF IN SUPPORT OF
PETITION FOR WRIT OF CERTIORARI**

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SUPPLEMENTAL BRIEF

The petition for a writ of *certiorari* in this case presented two questions. *First*, do abortion providers have Article III standing to assert the rights of their patients? *Second*, when, if ever, does a plaintiff who wins a preliminary injunction, but who never wins a final judgment on the merits, qualify as a “prevailing party” entitled to attorney’s fees under 42 U.S.C. §1988?

The Court’s decision in *June Medical Services LLC v. Russo*, 18-1323, resolves the first of these questions. *June Medical* establishes that third-party standing is a prudential doctrine, not a component of Article III standing, and that it is waived if not raised in the lower courts. *See* slip op. 11–16 (op. of Breyer, J.); slip op. 12 n.4 (Roberts, C.J., concurring in judgment). Since the petitioners here did not challenge the respondents’ third-party standing below, they can no longer do so. Thus, “the abortion providers in this case,” just like the abortion providers in *June Medical*, had “standing to assert the constitutional rights of their patients.” Slip op. 12 n.4 (Roberts, C.J., concurring in judgment).

Because the respondents’ standing is no longer at issue, this case now presents a clean vehicle for deciding the second question presented.

CONCLUSION

The Court should grant the petition for *certiorari* as to the second question presented.

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