

No. 23-

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IN THE  
**Supreme Court of the United States**

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X CORP.,

*Petitioner,*

*v.*

UNITED STATES,

*Respondent.*

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ON PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**PETITION FOR A WRIT OF CERTIORARI**

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## **QUESTIONS PRESENTED**

Months after publicly announcing investigations into former President Donald Trump, the government served Twitter, Inc. with a warrant seeking private communications sent and received by the former President during his presidency. The government also served a nondisclosure order barring Twitter from notifying the former President or a representative about the warrant. The courts below rejected Twitter's First Amendment challenge to the nondisclosure order after ordering Twitter to produce the communications without affording the former President an opportunity to assert privilege over them. As a result, "for the first time in American history," a court "ordered disclosure of presidential communications without notice to the President and without any adjudication of executive privilege." App.83a, 88a (Rao, J., statement respecting denial of rehearing petition). The questions presented are:

1. Whether an electronic communications service provider can be compelled to produce potentially privileged user communications before adjudication of the provider's First Amendment challenge to a nondisclosure order that prohibits it from notifying the user and before the user had notice and an opportunity to assert privilege, including executive privilege.

2. Whether the First Amendment permits gagging a provider in a highly public investigation where the government does not (a) demonstrate that disclosure would jeopardize the investigation's integrity; or (b) disprove the workability of a less-restrictive alternative, such as disclosure to a representative designated by a former President to assert executive privilege on his behalf.