



Congressional Court Watcher: Recent Appellate Decisions of Interest to Lawmakers (Mar. 20, 2023–Mar. 26, 2023)

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The federal courts issue hundreds of decisions every week in cases involving diverse legal disputes. This Sidebar series selects decisions from the past week that may be of particular interest to federal lawmakers, focusing on orders and decisions of the [Supreme Court](#) and precedential decisions of the courts of appeals for the [thirteen federal circuits](#). Selected cases typically involve the interpretation or validity of federal statutes and regulations, or constitutional issues relevant to Congress’s lawmaking and oversight functions.

Some cases identified in this Sidebar, or the legal questions they address, are examined in other CRS general distribution products. Members of Congress and congressional staff may [click here](#) to subscribe to the *CRS Legal Update* and receive regular notifications of new products and upcoming seminars by CRS attorneys.

Decisions of the Supreme Court

Last week, the Supreme Court issued a decision on the merits in one case for which it heard oral argument:

- **Education:** A unanimous Supreme Court held that the [Individuals with Disabilities Education Act \(IDEA\)](#) does not require a plaintiff to exhaust IDEA’s administrative procedures before filing a lawsuit seeking a remedy that is unavailable under IDEA. To guarantee children with disabilities a free, appropriate public education, IDEA gives children and their parents the right to an administrative hearing before a local or state official followed by an appeal to the state education agency. IDEA also preserves students’ rights to file civil actions under other laws, including the [Americans with Disabilities Act \(ADA\)](#), provided they first exhaust IDEA’s administrative procedures if they are “seeking relief” that is also available under IDEA. In a case where the plaintiff-appellant settled his IDEA complaint with the defendant school district prior to an administrative hearing, then filed a federal ADA lawsuit seeking compensatory damages

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(a remedy unavailable under IDEA), the Court held that, based on IDEA's text, the exhaustion requirement applies only when plaintiffs seek remedies that IDEA can provide. Thus, the mere fact that IDEA could provide *some* remedy did not require plaintiff to exhaust administrative procedures before filing a lawsuit for damages (*Perez v. Sturgis Pub. Sch.*).

On March 20, 2023, the Supreme Court granted certiorari and remanded a case to the Eighth Circuit involving a Missouri law requiring minors seeking an abortion to obtain either parental notification or permission from a court. The Court remanded proceedings with instructions to dismiss the case as moot (*Chapman v. Doe*).

Decisions of the U.S. Courts of Appeals

Topic headings marked with an asterisk (*) indicate cases in which the appellate court's controlling opinion recognizes a split among the federal appellate courts on a key legal issue resolved in the opinion, contributing to a nonuniform application of the law among the circuits.

- ***Administrative Law:** The D.C. Circuit and the Fifth Circuit issued conflicting decisions on whether district courts have jurisdiction over federal employees' challenges to COVID-19 vaccination mandates. The D.C. Circuit held that the district court correctly dismissed a federal employee's challenge to the COVID-19 vaccination mandate for executive branch employees in [Executive Order 14,043](#), which the plaintiff alleged was unconstitutional. The court determined that the Civil Service Reform Act (CSRA) foreclosed plaintiff's lawsuit because Congress intended the CSRA to provide the exclusive means to redress such claims (*Payne v. Biden*).
- On the same day, a divided Fifth Circuit, sitting en banc, affirmed a district court's exercise of subject-matter jurisdiction over pre-enforcement challenges to the same COVID-19 vaccine mandate. The plaintiffs raised several constitutional and statutory claims, and the district court enjoined the federal employee vaccine mandate. The en banc majority determined that the CSRA did not eliminate district court jurisdiction because the plaintiffs were not challenging the type of personnel actions covered by the statute. The court also determined that the district court did not abuse its discretion in issuing a nationwide preliminary injunction against the federal employee vaccination mandate (*Feds for Medical Freedom v. Biden*).
- **Communications:** The Fifth Circuit rejected petitioners' challenges to the constitutionality of Congress's delegation of the Universal Service Fund's (USF's) administration to the Federal Communications Commission (FCC) under the [Telecommunications Act of 1996](#). The court concluded that the Act provided the FCC with numerous intelligible principles to guide the agency's administration of the USF. The court further held that the FCC did not violate the private nondelegation doctrine by allowing a nonprofit to administer the USF (*Consumers' Research v. FCC*).
- ***Consumer Protection:** The Second Circuit affirmed a district court's decision to grant a Consumer Financial Protection Bureau (CFPB) petition to enforce a civil investigative demand (CID). The CFPB served plaintiff a CID for documents related to an investigation. Plaintiff argued, among other things, that the CID could not be enforced because the CFPB's funding structure violates the Constitution's Appropriations Clause, and Congress violated the nondelegation doctrine when it created the CFPB's funding structure in the [Consumer Financial Protection Act \(CFPA\)](#) because it did not articulate an intelligible principle to guide the President. Declining to follow a 2022 Fifth Circuit [decision](#) on the same issue, the Second Circuit rejected plaintiff's arguments and affirmed

the district court's decision to enforce the CID. The court explained that, contrary to the Fifth Circuit, it could not find any support in the text or history of the Appropriations Clause (or Supreme Court precedent) to support the conclusion that the CFPB's funding structure was impermissible (*CFPB v. Law Offices of Crystal Moroney, P.C.*).

- **Criminal Law:** The Sixth Circuit held that the right to a jury trial does not extend to supervised-release revocation proceedings under 18 U.S.C. § 3583(g) and that evidence collected in violation of the Fourth Amendment may not be excluded from such proceedings. In *United States v. Haymond*, the Supreme Court held that the jury-trial guarantee applies to § 3583(k)—which imposes a *minimum* 5-year prison term on a defendant who commits certain sex-related crimes while on supervised release—because the imposition of a new mandatory minimum sentence requires a jury finding. The circuit court declined to extend *Haymond* to § 3583(g)—which requires a defendant to serve unspecified additional time for certain drug and firearm offenses committed while on supervised release. The court reasoned § 3583(g) is closer to a traditional supervised-release sanction, which requires only a judge-made finding, than a penalty for a new offense requiring a jury finding. Joining other circuits, the court also held that the **exclusionary rule**, which generally prohibits prosecutors from introducing incriminating evidence obtained in violation of the Fourth Amendment, does not extend to supervised-release hearings (*United States v. Robinson*).
- **Environmental:** The Tenth Circuit held that an environmental organization did not have standing to challenge certain grazing permits issued by the Bureau of Land Management. Because the permits expired before the organization filed its lawsuit, the court found there was no injury to remedy. Although the expired permits renewed automatically under 43 U.S.C. § 1752(c)(2), the court held that the new permits did not create standing, both because the complaint challenged only the original permits and because the statute itself—rather than an agency decision—required their renewal. Although the Ninth Circuit and D.C. Circuit had allowed that expired permits could give rise to a justiciable case, the court distinguished those cases based on certain statutory amendments and the fact that those cases did not address standing but the related doctrine of mootness (*W. Watersheds Project v. Interior Bd. of Land Appeals*).
- **Immigration:** The Fourth Circuit affirmed a district court's denial of defendant's challenge to his criminal conviction for illegally reentering the country after having been ordered removed for committing an aggravated felony. In challenging his 2021 indictment for illegal reentry, the defendant claimed that the **five-year statute of limitations** barred his 2021 prosecution for illegal reentry because he had been “found in” the United States under 8 U.S.C. § 1326(a)(2) when he spoke with local police in 2016. The court held that, although the local sheriff's office had been operating under a memorandum of agreement with Immigration and Customs Enforcement, the deputy had not been designated under the agreement to enforce federal immigration laws. The court therefore determined that, under § 1326(a)(2), federal officials did not have knowledge of his presence in the United States, and therefore the statute of limitations had not run (*United States v. Alas*).
- **Religion:** A split Third Circuit held that a prisoner had a triable lawsuit against correctional officers whom he sued under the **Religious Freedom Restoration Act of 1993 (RFRA)**. The plaintiff, a Muslim, claims that defendants substantially burdened his sincere religious exercise by deliberately and repeatedly interfering with his regular prayers. Joining several other circuits, the court held that **qualified immunity**—which shields government officials from liability if their conduct does not violate clearly established law—is available under RFRA although the statute does not expressly permit

- it. Nonetheless, the majority of the panel held that the district court erred by granting summary judgment in favor of the defendants. Applying the [two-prong](#) qualified immunity test, the court held that the plaintiff made a prima facie case that defendants violated RFRA by substantially burdening his sincere religious exercise, and that record evidence showed the violation of what the majority characterized as the well-established “right to engage in prayer free of substantial, deliberate, repeated, and unjustified disruption by prison officials” (*Mack v. Yost*).

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