Congressional Research Service
Informing the legislative debate since 1914

Legal Sidebar

Congressional Court Watcher: Recent Appellate Decisions of Interest to Lawmakers (April 10-April 14, 2023)

April 19, 2023

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

The Supreme Court issued one opinion:

- **Federal Courts**: Resolving two cases in a single opinion, the Supreme Court held that federal district courts possess jurisdiction to hear constitutional challenges to the structure of the Federal Trade Commission (FTC) and the Securities and Exchange Commission (SEC). Under special review processes established by Congress, the FTC Act and the Securities Exchange Act both provide for direct review of final FTC and SEC decisions in a federal court of appeals. Typically, under these processes, a party challenging the constitutional authority of the agency makes a claim first within the administrative proceedings before the agency itself prior to seeking review by a federal *appellate* court. In these consolidated cases, a party challenging an FTC decision on constitutional grounds proceeded to federal *district* court, as did another party seeking review of an SEC decision. Following two appellate decisions that created a circuit split, the Supreme Court granted certiorari in both cases and held that the statutory review schemes do not

Congressional Research Service
https://crsreports.congress.gov
LSB10951

preclude a district court from reviewing constitutional claims. The Supreme Court explained that Congress did not intend for the special review provisions to apply to every claim and that the constitutional claims at issue in these cases are of the type to be raised in district court. The Court reasoned that divesting district courts of jurisdiction would frustrate meaningful judicial review, the claims are unrelated to case-specific aspects of agency action, and the claims are outside of the agency's areas of expertise (*Axon Enterprise, Inc. v. Federal Trade Commission*).

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 Fourth Circuit rejected claims that the appointment and service of the Acting Commissioner of the Social Security Administration violated 5 U.S.C. § 3346(a) of the Federal Vacancies Reform Act. Section 3346(a) authorizes acting service (1) for up to 210 days from the date of vacancy or (2) while a first or second nomination is pending before the Senate, and for certain periods afterwards. The Fourth Circuit agreed with the Eighth Circuit, holding that § 3364(a)(1) and (a)(2) create two independent periods of service, and that the Acting Commissioner could resume serving once the President nominated a permanent commissioner to the Senate even though the 210-day time period had already expired (*Rush v. Kijakazi*).
- **Arbitration**: The *en banc* Eleventh Circuit held that the grounds for vacating an international arbitration award under the New York Convention, which Congress implemented through Chapter 2 of the Federal Arbitration Act (FAA), are the grounds found in Chapter 1 of the FAA when the United States is the "primary jurisdiction" for purposes of the Convention. The court, observing that the Convention is silent on grounds for vacatur, overruled its prior precedent and joined four circuits in holding that the domestic law of the "primary jurisdiction"—the jurisdiction where the arbitrator was seated or whose law governed the conduct of the arbitration—acts as a gap-filler and provides the vacatur grounds for an arbitral award (*Corporación AIC, SA v. Hidroeléctrica Santa Rita S.A.*)
- **Bankruptcy:** The Second Circuit held that, for a creditor to assert a "cure claim" against a debtor on a contract to achieve the highest priority of payment in a bankruptcy proceeding under 11 U.S.C. § 365(b)(1)(A), the creditor must have a contractual right to payment under the contract. The court acknowledged that the text of § 365(b)(1)(A) does not expressly limit who can assert a cure claim, but the court determined that Congress did not intend for § 365(b)(1)(A) to permit creditors with no contractual right to payment to make cure claims (*Tutor Perini Building Corp. v. New York City Regional Center George Washington Bridge Bus Station and Infrastructure Development Fund, LLC*).
- ***Civil Rights:** A divided panel of the Eighth Circuit held that landlords are not required to accept government housing vouchers that they would not otherwise accept as a "reasonable accommodation" under the Fair Housing Amendments Act (FHAA). The FHAA generally requires landlords to make reasonable accommodations when necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling. The majority held that a reasonable accommodation under the FHAA must directly ameliorate the effects of a disability, which does not include ameliorating economic hardships. The Eighth Circuit, joining the Second and Seventh Circuits, split with the

Ninth Circuit, which has held that reasonable accommodations sometimes extend to the individual's economic circumstances (*Klossner v. IADU Table Mound MHP, LLC*).

- **Criminal Law**: The Eleventh Circuit joined other circuits in holding that several subsections of 8 U.S.C. § 1324—which make it unlawful to bring aliens into the United States, or to otherwise encourage or induce aliens into coming into the United States—apply extraterritorially. Generally, laws are presumed to apply only within the territorial jurisdiction of the United States absent a contrary indication of congressional intent. The Eleventh Circuit held that, while the extraterritorial application of the subsections is not expressly indicated in § 1324, the court inferred such extraterritorial application because the subsections target conduct that can take place outside the United States and to limit the subsections' reach would greatly curtail their scope and usefulness (*United States v. Rolle*).
- **Environmental Law**: The Eleventh Circuit transferred a petition for review of an Environmental Protection Agency (EPA) action under the Clean Air Act to the D.C. Circuit, pursuant to a statutory provision that requires challenges to "nationally applicable" EPA actions to be filed only in the D.C. Circuit. The Eleventh Circuit agreed with other circuits that, in determining whether a petition raises a national matter and thus must be heard in the D.C. Circuit, a court must focus on the EPA action and not the petitioner's grievance. Here, the petitioner contested EPA's allocation of hydrofluorocarbon (HFC) permits as part of its phasedown program, and the court held that EPA's actions were national. The court reasoned that there were no geographic restrictions as to the firms eligible for the permits or to the sites on which the permits could be used, and that no local factor was dispositive in the allocation of permits (*RMS of Georgia, Inc. v. EPA*).
- **Food & Drug**: The Fifth Circuit reversed a district court's determination that the Federal Food, Drug, and Cosmetic Act (FD&C Act) preempted state negligence and other claims stemming from the mislabeling of a food product. A child experienced an allergic reaction and psychological harm after eating a nonvegan cupcake that a grocer mislabeled as "vegan." The child's family brought various state law claims against the grocer. The Fifth Circuit observed that the Federal Drug Administration (FDA) possesses authority over food labeling requirements, but held that the FD&C Act does not preempt state law claims that are premised on the mislabeling, provided that the state claims operate in parallel to federal remedies and do not impinge on the FDA's labeling authority (*Spano v. Whole Foods, Inc.*).
- **Immigration:** Under the Immigration and Nationality Act, an individual who is otherwise ineligible for a U-visa may seek a waiver of inadmissibility from USCIS. The Ninth Circuit held that the INA deprived federal courts of jurisdiction to review a United States Citizenship and Immigration Services' (USCIS's) decision to deny such a waiver. The Ninth Circuit held that, because the INA commits the decision of whether to waive inadmissibility to USCIS's sole discretion, the district court lacked subject matter jurisdiction (*Mejia Vega v. USCIS*).
- **Military Lending Act:** A divided Fourth Circuit held that the Military Lending Act (MLA), which regulates lenders that extend "consumer credit" to members of the military, does not apply to secured car loans that finance both the purchase of a car and related costs. The MLA provides that loans offered "for the express purpose" of financing the purchase of a car are excepted from qualifying as "consumer credit." The majority held that, when read in the context of the full statute, "for the express purpose" means for a "specific" purpose, not a "sole" purpose. As a result, the MLA exception applies both to

- loans solely for a car purchase and loans for the purchase of a car and other purposes (*Davidson v. United Auto Credit Corporation*).
- **National Security:** In an *en banc* rehearing, a divided D.C. Circuit rejected an earlier three-judge panel's opinion holding that the protections of the Due Process Clause are categorically unavailable to law-of-war prisoners detained at the U.S. Naval Station at Guantanamo Bay, Cuba. The *en banc* court assumed without deciding that such detainees are entitled to Fifth Amendment rights, but held that any such procedural due process rights were satisfied by the habeas review conducted by the district court. The court remanded the detainee's substantive due process claim to the district court, reasoning that an intervening decision by a Periodic Review Board (the Board)—that the detainee's "continued law of war detention is no longer necessary to protect against a continuing significant threat to the security of the United States"—raises new questions regarding whether the detainee's continued detention is authorized by the governing statutes (*Al Hela v. Biden*).
- **Transportation:** The Eleventh Circuit held that the Federal Aviation Administration Authorization Act preempted a company's state negligence claims against a transportation broker that mistakenly gave the company's cargo to a thief posing as a representative of a valid transportation company. The Authorization Act's express preemption clause prohibits states from enacting any law related to a price, route, or service of any broker with respect to the transportation of property, but the Authorization Act also contains an exemption for state safety regulations "with respect to motor vehicles." The court held that the Authorization Act preempted the state negligence claims against the broker, explaining that the safety exception does not apply because the plaintiff's claims relate to the broker's selection of the transportation provider and do not directly challenge the safety of motor vehicles themselves (*Aspen American Insurance Company vs. Landstar Ranger, Inc.*).

Author Information

Dave S. Sidhu
Legislative Attorney

Madeline W. Donley
Legislative Attorney

Disclaimer