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Legal Sidebar

Congressional Court Watcher: Recent Appellate Decisions of Interest to Lawmakers (March 4–March 10, 2024)

March 11, 2024

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 one opinion:

- **Election Law:** In a judgment joined by all nine Justices, the Supreme Court reversed the Supreme Court of Colorado's decision that former President Donald Trump is constitutionally disqualified from holding future office under Section 3 of the Fourteenth Amendment. Section 3 bars persons who took an oath to support the Constitution and later engage in insurrection from serving in Congress, acting as electors for President or Vice President, or holding civil or military office at the state or federal level. In the per curiam opinion, a majority of the Court held that states may enforce Section 3 with regard to state offices, but only Congress may do so with regard to federal offices. The Court further held that, pursuant to Section 5 of the Fourteenth Amendment, Congress may enforce Section 3 through legislation, which must reflect proportionality between the legislation's purpose and its means and is subject to judicial review (*Trump v. Anderson*).

The Supreme Court also took action in response to emergency applications:

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- **Immigration:** On March 4, 2024, Justice Samuel Alito, acting in his Circuit Justice capacity, issued administrative stays of a Fifth Circuit's order that would have allowed Texas to enforce a new law, S.B. 4, permitting the state to arrest, criminally sanction, and remove aliens who are believed to have crossed into the United States illegally. The administrative stays give the Court more time to consider an emergency application by the federal government and a related emergency application asking the Court to vacate the Fifth Circuit's order, which had stayed a district court order granting a preliminary injunction against enforcement of S.B. 4. The administrative stays are set to end on March 11, 2024 (*U.S. v. Texas; Las Americas Immigrant Advocacy Center v. McCraw*).

Decisions of the U.S. Courts of Appeals

- **Bankruptcy:** The Eighth Circuit held that an increase in equity in a debtor's residence after the filing of a Chapter 13 bankruptcy petition (involving the repayment of debts) but before the conversion of that petition to Chapter 7 (involving the liquidation of assets) became property of her converted bankruptcy estate. The court held that this equity was part of the debtor's converted estate. In support, the panel cited 11 U.S.C. § 348(f)(1)(A), which states that property of the converted estate includes property of the estate under the debtor's control on the date of conversion, and 11 U.S.C. § 541(a), which provides that the estate includes "[p]roceeds, product, offspring, rents, or profits of or from property of the estate" (*In re Goetz*).
- **Criminal Law & Procedure:** The Ninth Circuit held that 18 U.S.C. § 880—which, among other things, criminalizes receipt of money or property obtained through violation of federal extortion statutes "knowing the same to have been unlawfully obtained"—does not require knowledge that the money or property was obtained through extortion. Affirming the defendants' convictions under Section 880, the court construed "knowing the same" to refer to the money or property received, rather than to the portion of the statute referencing particular extortion offenses. Thus, the court held that knowledge that the money or property at issue was unlawfully obtained is sufficient for conviction under the statute (*United States v. Lemus*).
- **Criminal Law & Procedure:** A Second Circuit panel ruled that federal prosecutors sufficiently alleged a quid pro quo in the indictment of a state senator charged with federal funds bribery and honest services wire fraud, among other things, in connection with campaign contributions. The panel held that the lower court erred in treating the Supreme Court's decisions in *McCormack v. United States* and *Evans v. United States* as establishing separate quid pro quo tests for bribery offenses depending on whether they involved campaign contributions (as occurred in *McCormick,* but not in *Evans*). The Second Circuit joined other circuits in treating *Evans* as a clarification of *McCormick* that likewise applied to cases involving campaign contributions. The panel held that under *McCormick* and *Evans*, if a quid pro quo is required for conviction under a federal statute, it may be inferred from the words and actions of the official and payor and need not be expressly stated (*United States v. Benjamin*).
- **Firearms:** The First Circuit held that a Rhode Island law banning possession of certain large capacity feeding devices or magazines (LCMs) (i.e., holding more than 10 rounds of ammunition) for firearms likely did not violate the Second Amendment. Evaluating the Second Amendment claim under the framework established by the Supreme Court in *New York State Rifle & Pistol Association v. Bruen*, the court asked first whether the plain text of the Second Amendment covered the regulated items as "arms," and second, whether regulation or prohibition of the items was "consistent with this Nation's historical

tradition of firearm regulation." Assuming without deciding that LCMs are arms, the court held that banning LCMs was consistent with historical analogues in terms of "how and why [they] burden a law-abiding citizen's right to armed self-defense," pointing to bans of other weapons such as Bowie knives and sawed-off shotguns not primarily used for self-defense (*Ocean State Tactical, LLC, v. Rhode Island*).

- **Immigration:** The Eighth Circuit dismissed for lack of subject-matter jurisdiction a case seeking review of a U.S. Citizenship and Immigration Services (USCIS) decision to delay adjudication of applications for adjustment of status under 8 U.S.C. § 1255(a). Although the Department of State had listed the petitioners' class of visa as available based on their priority date, the agency changed the priority date, effectively delaying the adjudication of their applications pursuant to USCIS regulation. The court construed both Section 1255(a), which provides that the Attorney General may adjust status of certain aliens "in his discretion and under regulations as he may prescribe," and 8 U.S.C. § 1252(a)(2)(B)(ii), which provides that no court has jurisdiction to review certain discretionary decisions of the Attorney General. The court held that both the regulation and the delay were within the discretion of the Attorney General granted in Section 1255(a), and Section 1252(a)(2)(B)(ii) therefore barred the court from hearing the case (*Thigulla v. Jaddou*).
- **Labor & Employment:** The Sixth Circuit reversed a district court's grant of summary judgment to oilfield technicians seeking overtime pay under the Fair Labor Standards Act (FLSA). One exception to the FLSA requirement to pay overtime compensation allows for an alternative compensation arrangement known as a *Belo* plan (29 U.S.C. § 207(f)). Under a *Belo* plan, an employer can set a guaranteed weekly wage for all hours worked if an employee's job duties "necessitate irregular hours of work." The court concluded that this criterion only applies when the nature of the work inherently requires irregularity, meaning it does not apply when the employee or employer controls the irregularity of the hours. Finding a genuine dispute of fact as to the driving factors behind the irregular work schedule, the court reversed the district court's grant of summary judgment and remanded for further proceedings (*Jones v. Producers Serv. Corp.*).
- **Labor & Employment:** The Federal Circuit affirmed an arbitrator's decision that the Bureau of Prisons (BOP) properly terminated a federal employee during the employee's probationary period, rejecting the claim that the termination was invalid because the employee received notice of the termination after the end of the probationary period. The court held that 5 C.F.R. § 315.804(a), which requires an agency to provide written notice to an employee who is terminated during a probationary or trial period, does not require the employee to actually receive that notice before the end of the probationary period when the agency makes reasonable efforts to timely deliver the notice (*Lewis v. Fed. Bureau of Prisons*).
- **Public Health:** The Fourth Circuit affirmed a district court's permanent injunction barring South Carolina from terminating its Medicaid provider agreement with Planned Parenthood. This was a repeat affirmation by the Fourth Circuit—after the Supreme Court had vacated and remanded a similar decision in the same case (discussed in an earlier edition of the *Congressional Court Watcher*). Determining that its prior holding was consistent with the Supreme Court's recent opinion in *Health & Hospital Corp. of Marion County, Indiana v. Talevski*, the Fourth Circuit held that Medicaid's free-choice-of-provider provision, 42 U.S.C. § 1396a(a)(23), codified Congress's desire to extend a choice of medical providers to Medicaid beneficiaries, and that that right is enforceable under 42 U.S.C. § 1983 (*Planned Parenthood South Atlantic v. Kerr*).

- **Securities:** The Second Circuit held that a lower court improperly dismissed plaintiffs' suit under U.S. securities laws against Binance, a global cryptocurrency exchange. The panel held that the plaintiffs plausibly alleged domestic activity subject to these laws because they claimed (1) their transactions occurred over the company's U.S.-based servers, and (2) they entered terms of use agreements with Binance, placed purchase orders, and sent payments from the United States. The panel also ruled that the statutes of limitations for seeking damages under Section 12(a)(1) of the Securities Act or the rescission of a contract under Section 29(b) of the Securities Exchange Act was triggered when the plaintiffs purchased or committed to purchase unregistered securities and that some of the plaintiffs' claims fell within the limitations period (*Williams v. Binance*).
- **Sovereign Immunity:** The D.C. Circuit dismissed a suit against Iran and Syria for injuries arising from a terrorist attack by a member of Hamas on the ground that the terrorism exception to foreign state immunity in the Foreign Sovereign Immunities Act (FSIA) did not apply. FSIA generally grants foreign states immunity from suit, but 28 U.S.C. § 1605A(a) permits federal courts to hear personal injury claims against designated state sponsors of terrorism for damages arising from "an act of . . . extrajudicial killing" or "the provision of material support or resources for such an act." The court held that, for the Section 1605A(a)(1) exception to apply, the injured victim's killing must have occurred. Because that did not happen in this case, the court concluded that Iran and Syria are immune from suit under FSIA (*Borochov v. Islamic Republic of Iran*).
- **Speech:** The Fifth Circuit vacated in part and affirmed in part a district court injunction preventing enforcement of Texas H.B. 1181, which requires commercial pornographic websites to verify the age of their visitors and display certain health warnings about consuming pornography. First, the court vacated the injunction as to the age-verification requirement. Analyzing the requirement under rational basis review, the court held that the age-verification requirement was rationally related to the Texas government's legitimate interest in keeping minors from accessing pornography and therefore would likely not violate the First Amendment. Second, the court upheld the injunction as to the required health warnings. The court held that the health warnings likely compelled the plaintiffs' speech in violation of the First Amendment as interpreted by the Supreme Court in *National Institute of Family & Life Advocates v. Becerra*. The court further held that Section 230 of the Communications Act (47 U.S.C. § 230) did not preempt H.B. 1181 (*Free Speech Coal. Inc. v. Paxton*).
- **Speech:** The Eleventh Circuit affirmed a district court's order preliminarily enjoining enforcement of Florida's Individual Freedom Act, a law prohibiting employers from holding a mandatory workplace training that endorses certain beliefs regarding race, color, sex, or national origin. Rejecting arguments that the law regulates the conduct of a meeting rather than the speech occurring at that meeting, the court held that the Florida law targeted speech based on its content and penalized particular viewpoints, therefore subjecting it to strict constitutional scrutiny. The court held that the law failed strict scrutiny and violated the First Amendment because it limited more speech than necessary to serve the state's professed interest in combating discrimination (*Honeyfund.Com Inc. v. Governor of Florida*).

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