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Legal Sidebar

Congressional Court Watcher: Recent Appellate Decisions of Interest to Lawmakers (April 8–April 14, 2024)

April 15, 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 three decisions in cases where it had heard arguments:

- **Arbitration:** In a 9-0 decision, the Court held that the exemption in Section 1 of the Federal Arbitration Act (FAA) for transportation workers engaged in foreign or interstate commerce extends to workers engaged in interstate transportation, regardless of whether their employer is in the transportation industry. In this case, the Court agreed that truck drivers for a baked goods company fell under the FAA's exemption, and thus the arbitration clauses in their employment contracts with the company were not enforceable under the FAA (*Bissonnette v. LePage Bakeries Park St., LLC*).
- **Property:** The Court unanimously ruled that the *Nollan/Dolan* test, used to assess whether a building permit exaction is an unconstitutional taking, applies regardless of whether the permitting condition is established administratively or through legislation (*Sheetz v. Cnty. of El Dorado*).

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LSB11147

- **Securities:** In a 9-0 decision, the Court held that regulations implementing Section 10(b) of the Securities Exchange Act of 1934, which make it unlawful to omit material facts in connection with buying or selling securities, do not apply to all omissions but only those rendering the speaker's affirmative statements misleading (*Macquarie Infrastructure Corp. v. Moab Partners, L.P.*).

Decisions of the U.S. Court of Appeals

Topic headings marked with an asterisk (*) indicate cases where 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 non-uniform application of the law among the circuits.

- **Arbitration:** The Ninth Circuit held Section 1 of the FAA, which exempts from coverage arbitration clauses in employment contracts for transportation workers involved in interstate or foreign commerce, does not apply to arbitration clauses in contracts between corporate entities regarding the provision of transportation services. As a result, the arbitration clauses between business entities providing for local delivery services were enforceable. The ruling aligns with recent decisions by the Fourth and Sixth Circuits (*Fli-Lo Falcon LLC v. Amazon.com, Inc.*).
- **Criminal Law & Procedure:** The D.C. Circuit upheld a criminal defendant's conviction under 40 U.S.C. § 5104(e)(2)(G) for demonstrating in a U.S. Capitol building in connection with the events on January 6, 2021. The court rejected the defendant's claims that the law's prohibition on parading, demonstrating, or picketing in Capitol buildings was facially overbroad in violation of the First Amendment and void for vagueness in violation of the Fifth Amendment's Due Process Clause (*United States v. Nassif*).
- **Criminal Law & Procedure:** The Ninth Circuit vacated several criminal defendants' convictions for mail fraud under 18 U.S.C. § 1341 and conspiracy to commit mail fraud under 18 U.S.C. § 1349 where the defendants had deceived businesses into purchasing print toner by falsely implying that they were the businesses' regular toner suppliers. The panel held that the jury instructions were overbroad because they permitted the government to convict by showing that the businesses were deceived into entering an agreement with the defendants. Instead, the panel held that the government needed to show that the deception went to the nature of the bargain, such as with respect to the price, quantity, or quality of the goods being sold (*United States v. Milheiser*).
- **Environmental Law:** In a per curiam opinion, a D.C. Circuit panel rejected a challenge by several states and private parties to a 2022 Environmental Protection Agency (EPA) decision—which reinstated a decision withdrawn in 2019—that waives federal preemption of California zero-emission regulations for certain automobiles under Section 209 of the Clean Air Act (CAA). While most of the plaintiffs' challenges were dismissed on standing grounds, the panel reached the states' argument that the EPA's decision to grant a CAA waiver to California violated other states' right to equal sovereignty by leaving them less authority to regulate auto emissions than California. The panel rejected this challenge, observing that constitutional challenges to federal statutes based on equal sovereignty claims only had been recognized in narrow circumstances not applicable here (e.g., electoral representation). The panel held that equal sovereignty considerations do not categorically limit Congress's power to regulate interstate commerce, including through legislation like the CAA (*Ohio v. EPA*).
- **Food & Drug:** The Fourth Circuit upheld a Centers for Medicare and Medicaid Services (CMS) regulation broadening the scope of covered "line-extension" drugs under the

Medicaid Drug Rebate Program. The Social Security Act requires participating drug manufacturers that increase prices for certain drugs faster than inflation to reimburse Medicaid for the difference. The reimbursement rate for a line-extension drug—defined by statute to include a "new formulation" of an existing drug—factors in not only the price increase of the line-extension drug itself but also the price increase of the drug in its original form. The circuit panel held that CMS's regulatory definitions of "line-extension" and "new formulation"—which covered some drugs with different release mechanisms, ingredients, or strengths than the original drug—fell within the scope of the governing statute (*Vanda Pharms, Inc. v. CMS*).

- **Tax:** In a per curiam opinion, the Seventh Circuit directed a district court to grant the government's request for an injunction requiring the defendants to pay the United States future taxes owed. While the lower court had rendered judgment in favor of the United States for back taxes owed by the defendants, it declined to issue an injunction directing the defendants to pay their future taxes before paying their creditors. The government had requested relief under 26 U.S.C. § 7402(a), which permits "orders of injunction ... as may be necessary or appropriate for the enforcement of the internal revenue laws." The district court reasoned that the government did not satisfy the traditional requirements for injunctive relief, as it had not shown it would face irreparable harm from the loss of future revenue absent the injunction. While the circuit panel declined to decide whether traditional injunctive relief factors apply to Section 7402(a), it held that Treasury's injury from a continuation of the defendants' conduct was enough to satisfy the irreparable harm requirement, and that requiring a showing of additional injury, such as insolvency of the national government, would render the statute ineffectual (*United States v. Olson*).
- **Tax:** The Tenth Circuit held that the requirements that the Internal Revenue Service must satisfy to initiate church tax inquiries and examinations under 26 U.S.C. § 7611, the Church Audit Procedures Act, do not apply to third-party summons of churches' bank records under 26 U.S.C. § 7609. The court held that there is no hybrid set of requirements governing the summons of a church's records held by a third party, even if the summons is made in connection with an inquiry or examination that would be governed by Section 7611 (*God's Storehouse Topeka Church v. United States*).

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