

# Congressional Court Watcher: Recent Appellate Decisions of Interest to Lawmakers (June 24–June 30, 2024), Part 1

July 1, 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.

This edition of the *Congressional Court Watcher* is divided into two parts because of the number of notable decisions issued over the past week. This Legal Sidebar (Part 1) discusses Supreme Court activity from June 24 through June 30, 2024. A [companion Legal Sidebar \(Part 2\)](#) addresses decisions of the U.S. courts of appeals from that period.

## Decisions of the Supreme Court

Last week, the Supreme Court issued nine decisions in cases for which it heard arguments:

- **Abortion:** In an unsigned order and over the dissent of four Justices, the Court dismissed as improvidently granted the appeals in consolidated cases asking the Court to decide whether the [Emergency Medical Treatment and Labor Act \(EMTALA\)](#) preempts aspects of an Idaho law making it a crime for a health care provider to perform an abortion except in limited circumstances, including when an abortion is necessary to prevent the death of the pregnant woman. By dismissing the appeals, the Court did not decide the merits of the preemption question, leaving it to the lower courts to decide the issues

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raised in the first instance. The Court also allowed to go into effect a district court's preliminary injunction blocking enforcement of the state law against providers that perform EMTALA-required abortions in cases of medical emergency (*Moyle v. United States; Idaho v. United States*).

- **Administrative Law:** In a 6-3 ruling, the Court overruled the administrative law doctrine known as *Chevron* deference, established by the Court in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.* The doctrine required federal courts to defer to a federal agency's reasonable interpretation of ambiguous statutory provisions the agency administers. The Court held that the *Chevron* framework violates Section 706 of the Administrative Procedure Act, which requires courts to "decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action." Although petitioners also challenged *Chevron* on constitutional grounds, the Court's opinion did not address those arguments (*Loper Bright Enterprises v. Raimondo; Relentless, Inc. v. Dep't of Com.*).
- **Bankruptcy:** In a 5-4 decision, the Court held that the Bankruptcy Code does not authorize a bankruptcy court to approve, as part of a plan of reorganization under Chapter 11 of the Bankruptcy Code, a release and injunction that includes nonconsensual releases of legal claims against nondebtors (i.e., third parties who have not filed for bankruptcy), except where specifically provided for in asbestos-related cases. The decision reverses a bankruptcy court's confirmation of the reorganization plan for pharmaceutical manufacturer Purdue Pharma, which filed for bankruptcy after costly civil litigation over its opioid product OxyContin. The plan included the release of many civil litigation claims against the Sackler family, which owned and operated Purdue Pharma for decades. The release was contingent upon the family agreeing to contribute billions of dollars to the company's bankruptcy estate to fund settlements with private litigants and various government entities. The Supreme Court held that the Bankruptcy Code does not provide for the release of claims against nondebtors such as the Sacklers without the claimants' consent (*Harrington v. Purdue Pharma, L.P.*).
- **Criminal Law & Procedure:** In a 6-3 decision, the Court held that 18 U.S.C. § 666(a)(1)(B)—which generally makes it a crime for a state or local government agent to corruptly solicit, demand, or agree to accept things of value worth at least \$5,000 with the intent "to be influenced or rewarded in connection" with government action—does not apply to gratuities, which are rewards for actions the payee has already taken or is already committed to take without any quid pro quo agreement (*Snyder v. United States*).
- **Criminal Law & Procedure:** The Court decided 6-3 that the government's charge of a criminal defendant with corruptly obstructing, influencing, or impeding an official proceeding in violation of 18 U.S.C. § 1512(c)(2) was premised on an overbroad interpretation of the provision. The defendant was charged with several offenses in connection to an alleged attempt to disrupt congressional certification of the 2020 presidential election results on January 6, 2021. The majority's decision that the defendant had been improperly charged under Section 1512(c) in relation to his breach of the Capitol building turned on the relationship between 18 U.S.C. § 1512(c)(1) and (c)(2). Section 1512(c)(1) imposes a criminal penalty on one who "alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding." Section 1512(c)(2)—the provision under which the defendant was charged—punishes one who "otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so." The Court majority reasoned that Section 1512(c)(2) must be read in conjunction with the limited reach of Section 1512(c)(1). Against this backdrop, the

majority held that to violate Section 1512(c)(2), obstructive conduct must involve some action as to a document, record, or other object with the intent to impair the item's use in an official proceeding (*Fischer v. United States*).

- **Environmental Law:** In a 5-4 decision, the Court agreed to stay the implementation of the [Environmental Protection Agency's \(EPA's\) "Good Neighbor" Plan](#)—intended to limit ozone-forming emissions from power plants and industrial facilities—against the plaintiff states while litigation proceeds in the D.C. Circuit. Under the Clean Air Act (CAA), a state must submit a State Implementation Plan (SIP) for EPA's approval detailing how it will meet national ambient air quality standards (NAAQS) set by the agency. If EPA concludes that the SIP is inadequate, the agency will issue a federal plan in its place. The CAA imposes "good neighbor" requirements on upwind states' SIPs to ensure that emission activities within their jurisdictions do not impede downwind states from meeting NAAQS. In 2023, after EPA denied several upwind states' SIPs, the agency issued the "Good Neighbor" Plan to establish an emission-control program in place of those SIPs. Here, the Court decided that a stay was appropriate, in part, because plaintiffs were likely to succeed in their claim that the EPA plan is unreasonable because the plan was based on more upwind states following the plan than were ultimately made subject to it (*Ohio v. EPA; Kinder Morgan, Inc. v. EPA; Am. Forest & Paper Ass'n v. EPA; U.S. Steel Corp. v. EPA*).
- **Housing:** The Court ruled 6-3 that city ordinances imposing generally applicable restrictions on camping on public property do not violate the [Eighth Amendment's](#) prohibition on cruel and unusual punishment if enforced against homeless persons who lack access to temporary shelter (*City of Grants Pass v. Johnson*).
- **Securities:** In a 6-3 decision, the Court held that the Securities and Exchange Commission's (SEC's) administrative adjudication of securities fraud cases seeking civil penalties violates the [Seventh Amendment](#) right to a jury trial. The Court identified two pertinent factors for deciding whether an action is covered by the Seventh Amendment: (1) whether the action is akin to a common law cause of action and (2) whether the remedy is the type that traditionally was obtained only in a court of law. The Court held that both factors were met here. Because the case was resolved on Seventh Amendment grounds, the Court declined to reach other constitutional challenges raised in the case, including (1) whether Congress violated the nondelegation doctrine in giving the SEC discretion to bring enforcement actions either administratively or through a suit in an Article III court and (2) whether the statutory removal protections given to SEC administrative law judges infringe on the President's power to remove executive officers (*SEC v. Jarkesy*).
- **Speech:** In a 6-3 ruling, the Court decided that plaintiff states and individual social media users lacked standing to bring suit to enjoin certain executive branch officials from communicating with social media platforms regarding their content-moderation decisions. Although the Court viewed the case record as showing some government influence in the platforms' content-moderation choices, the Court ruled that the plaintiffs failed to show specific causation between government action and the social media platforms' discrete acts of content moderation affecting them. The Court reversed the judgment of the United States Court of Appeals for the Fifth Circuit that had partially affirmed a preliminary injunction blocking such communications (*Murthy v. Missouri*).

The Court also granted certiorari to consider the following cases next term:

- **Bankruptcy:** The Court agreed to hear a case from the Tenth Circuit on whether the government's waiver of sovereign immunity in [Section 106\(a\) of the Bankruptcy](#)

[Code](#) permits a bankruptcy trustee to avoid under [Section 544\(b\)\(1\)](#) of the Code a transfer of property—here tax payments to the Internal Revenue Service—under state law, when sovereign immunity would bar such a claim outside the bankruptcy case (*United States v. Miller*).

- **Civil Rights:** The Court granted certiorari in a case from the Eleventh Circuit on whether [Title I of the Americans with Disabilities Act](#) permits a former employee to sue for discrimination based on postemployment distribution of fringe benefits. The plaintiff sued her former employer under Title I for terminating the health insurance subsidy she had received when she retired for qualifying disability reasons, but the appeals court concluded that a Title I plaintiff must hold or seek a position with the defendant at the time of the allegedly discriminatory act (*Stanley v. City of Sanford*).
- **Environmental Law:** The Court agreed to review a case from the D.C. Circuit asking the Court to determine whether the [National Environmental Policy Act](#), which directs federal agencies to consider the environmental effects of proposed actions, requires consideration of environmental impacts that may extend beyond the proximate effects over which the agency exercises jurisdiction (*Seven Cnty. Infrastructure Coalition v. Eagle County*).
- **Health:** The Court agreed to hear a case from the Sixth Circuit on whether a Tennessee law that restricts the use of certain medical treatments when the treatment is intended to allow a minor to identify with or live as an identity inconsistent with the minor’s sex or to treat purported discomfort or distress from a discordance between the minor’s sex and asserted identity violates constitutional equal protection principles (*United States v. Skrmetti*).
- **Intellectual Property:** The Court granted certiorari in a case from the Fourth Circuit regarding a provision of the Lanham Act, [15 U.S.C. § 1117\(a\)](#), which provides that when a court finds the “the amount of the recovery based on profits is either inadequate or excessive, the court may in its discretion enter judgment for such sum as the court shall find to be just.” The Court is asked whether this authority allows a court to order a defendant to disgorge profits from a legally separate nonparty corporate affiliate (*Dewberry Grp., Inc. v. Dewberry Engineers, Inc.*).
- **Sovereign Immunity:** The Court agreed to hear a case from the D.C. Circuit involving the Foreign Sovereign Immunities Act’s expropriation exception, [28 U.S.C. § 1605\(a\)\(3\)](#), which waives sovereign immunity for rights in property taken in violation of international law. The exception requires the property in question, or “any property exchanged for such property,” to either be (1) “present in the United States in connection with a commercial activity” or (2) “owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity in the United States.” The Court is asked to determine the showing required to satisfy this commercial nexus requirement, as well as the pleading standard and the burden of proof for such claims (*Republic of Hungary v. Simon*).
- **Veterans:** The Court granted certiorari in a case from the Federal Circuit on whether a federal civilian employee called into active duty service during a national emergency is entitled to differential pay under [5 U.S.C. § 5538](#), even if that employee is not involved in a contingency operation related to the national emergency (*Feliciano v. Dep’t of Transp.*).

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