

Congressional Court Watcher: Circuit Splits from September 2025

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The U.S. Courts of Appeals for the thirteen “circuits” issue thousands of precedential decisions each year. Because relatively few of these decisions are ultimately reviewed by the Supreme Court, the U.S. Courts of Appeals are often the [last word](#) on consequential legal questions. The federal appellate courts sometimes reach different conclusions on the same issue of federal law, causing a “split” among the circuits that leads to the nonuniform application of federal law among similarly situated litigants.

This Legal Sidebar discusses circuit splits that emerged or widened following decisions from September 2025 on matters relevant to Congress. The Sidebar does not address every circuit split that developed or widened during this period. Selected cases typically involve judicial disagreement over the interpretation or validity of federal statutes and regulations, or constitutional issues relevant to Congress’s lawmaking and oversight functions. The Sidebar includes only cases where an appellate court’s controlling opinion recognizes a split among the circuits on a key legal issue resolved in the opinion. This Sidebar refers to each U.S. Court of Appeals by its number or descriptor (e.g., “D.C. Circuit” for “U.S. Court of Appeals for the D.C. Circuit”).

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.

- **Civil Rights:** A divided Ninth Circuit panel affirmed the dismissal of an employee’s religious discrimination claim under [Title VII of the Civil Rights Act of 1964](#), where the plaintiff alleged that her medical employer discriminated against her in denying an accommodation from COVID-19 vaccination and testing requirements. The majority held that in deciding whether a Title VII plaintiff has sufficiently stated a religious accommodation claim, a court must look for a close connection between the plaintiff’s religious belief and her opposition to a work requirement. The majority rejected the approach of the [Sixth](#), [Seventh](#), and [Eighth](#) Circuits, which it described as adopting a more lenient standard in which a plaintiff need only invoke a religious belief in opposition to a secular work requirement to state a Title VII claim. The majority held that the plaintiff’s complaint in this case did not sufficiently show a religious reason for her

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accommodation request; instead, it showed her request was based on her secular interpretation of medical research that she confirmed through personal prayer (*Detwiler v. Mid-Columbia Med. Ctr.*).

- **Civil Procedure:** The Ninth Circuit ordered a district court to dismiss without prejudice plaintiffs' complaints against the manufacturer of Kleenex wipes for lack of subject matter jurisdiction. The panel explained that to establish subject matter jurisdiction in this case, the plaintiffs needed to show both diversity of citizenship and a requisite dollar amount in controversy under [28 U.S.C. § 1332](#), and observed that plaintiffs had failed to establish the citizenship of the defendant in their complaint. Agreeing with the [Tenth Circuit](#), the panel decided that diversity of citizenship could not be established by the court through judicial notice because the burden of pleading and proving jurisdiction is with the party seeking the exercise of the court's jurisdiction. On this issue, the panel explicitly disagreed with the [Fifth Circuit](#) and noted that the [Second](#) and [Third Circuits](#) had issued decisions in which they had taken judicial notice of a party's citizenship without explanation. To correct the deficiency, the court permitted plaintiffs to file an amended complaint directly with the appeals court, which the panel found adequately demonstrated diversity of citizenship. It concluded, however, that the amended complaint failed to establish the other element of Section 1332—the threshold dollar amount in controversy—and therefore remanded to the district court for dismissal for lack of subject matter jurisdiction (*Rosenwald v. Kimberly-Clark Corp.*).
- **Civil Procedure:** The D.C. Circuit reversed a trial court's ruling that creditors with terrorism-related judgments against Iran could not attach funds blocked under the [International Emergency Economic Powers Act](#) (IEEPA) because (1) the funds remained immunized from attachment under the Foreign Sovereign Immunities Act (FSIA) and (2) the U.S. government already had commenced a civil forfeiture action against those same funds. As to the FSIA, the D.C. Circuit held that the funds met the statutory definition of "blocked assets" under the [Terrorism Risk Insurance Act of 2002](#), which creates an exemption to foreign sovereign immunity when a party that has obtained a terrorism-based judgment against a designated state sponsor of terrorism seeks to attach assets "seized or frozen by the United States" under IEEPA or the [Trading with the Enemy Act](#). The court of appeals rejected the trial court's ruling that the funds had lost their "blocked" status because the Office of Foreign Assets Control (OFAC) had issued a forfeiture "license" to the government. The D.C. Circuit held that the license simply permitted forfeiture proceedings to begin but did not "unfreeze" the funds, in contrast to the holdings of other courts, including the [Seventh Circuit](#), that such assets are unblocked once licensed by OFAC. Turning to the trial court's alternative basis for quashing the creditors' attachment motions, the D.C. Circuit held that the federal government's prior commencement of a civil forfeiture proceeding against the funds did not preclude the attachment actions under the prior exclusive jurisdiction doctrine. The court of appeals explained that this doctrine dictates that "only one court at a time may exercise jurisdiction over particular property," and thus the doctrine did not apply in this case because both the forfeiture and attachment actions had been filed in the same court. Recognizing that its holding might reduce forfeited assets available for deposit into the [U.S. Victims of State Sponsored Terrorism Fund](#), the D.C. Circuit observed that this is a situation for Congress to address, not the courts, as it arose from an "anomaly in the interaction" of two federal statutes (*Est. of Levin v. Wells Fargo Bank, N.A.*).
- **Criminal Law & Procedure:** In a case stemming from the towing of a vehicle, the Third Circuit examined whether a lawful towing becomes unlawfully unreasonable under the [Fourth Amendment](#) through prolonged detention, among other constitutional challenges.

The Court decided that the Fourth Amendment requires that both the initial seizure and continued retention of property by the government be reasonable. In doing so, the Third Circuit joined the [Ninth](#) and [D.C. Circuits](#) and split with the [First](#), [Second](#), [Sixth](#), [Seventh](#), and [Eleventh Circuits](#), which have found the Fourth Amendment to be inapplicable to the protracted detention of legally seized property. Nevertheless, the Third Circuit panel partially reversed the district court and determined that the city's constructive retention of the vehicle in this case was reasonable and did not violate the Fourth Amendment (*Honda Lease Tr. v. Malanga's Auto.*).

- **Criminal Law & Procedure:** After affirming a defendant's conviction for foreign murder ([18 U.S.C. § 1119](#)) and mail fraud ([18 U.S.C. § 1341](#)), the Tenth Circuit rejected the defendant's arguments that assets purchased using the proceeds of his murdered wife's life insurance along with other untainted funds were too commingled to justify forfeiture under [18 U.S.C. § 981\(a\)\(1\)\(C\)](#). The panel cited decisions by the [Eighth](#) and [Ninth](#) Circuits involving direct forfeiture of property traceable to wire fraud as support for its holding. The panel specifically rejected the defendant's reliance on a [Third](#) Circuit opinion, which had found that when commingled assets cannot be easily divided, the government must use the substitute assets provision in [21 U.S.C. § 853\(p\)](#) to satisfy forfeiture. The Tenth Circuit also pointed to a subsequent Third Circuit [decision](#) in which that court had allowed the direct forfeiture of commingled assets where the laundered funds could be clearly traced. The Tenth Circuit concluded that there was no clear error in the district court's finding that the defendant's commingled assets could be divided and were traceable to laundered funds and thus deemed the forfeiture proper (*United States v. Rudolph*).
- **Criminal Law & Procedure:** The Eleventh Circuit affirmed a criminal conviction under [18 U.S.C. § 245\(b\)\(2\)\(B\)](#), which, among other things, prohibits using force or threats of force to willfully injure, intimidate, or interfere with a person because of their race and because they are enjoying a facility administered by a state or local government. A trial court found that the defendant repeatedly attempted to run a family's car off a county road while shouting racial slurs and miming shooting the victims. In upholding the conviction, the panel rejected the defendant's constitutional challenge, holding that Section 245(b)(2)(B) is a valid exercise of Congress's [Thirteenth Amendment](#) authority to legislate against the badges and incidents of slavery. The panel also interpreted the statute to require only "but-for" causation—meaning the government needed to prove only that the racially motivated attack would not have occurred but for the victim's use of the county road. It rejected the defendant's more stringent reading of Section 245(b)(2)(B) as requiring proof that the defendant's intent or reason for acting was to stop the defendant from using the road. The Eleventh Circuit acknowledged that some [other circuits](#) interpreted Section 245(b)(2)(B) to impose such an intent standard, but declined to follow them in light of subsequent [Supreme Court caselaw](#) on but-for causation (*United States v. Leahy*).
- **Firearms:** A divided panel of the Third Circuit held some, but not all, portions of a New Jersey law imposing firearms permitting requirements and carry restrictions on firearms owners were likely constitutional on appeal of a preliminary injunction. Applying the history-based framework established by the Supreme Court's [Bruen](#) decision to assess whether a firearms regulation is consistent with the [Second Amendment](#), the panel majority upheld the constitutionality of many of the law's firearms restrictions relating to sensitive places, such as public gatherings, parks, public libraries and museums, health care facilities, and public transit. Conversely, it agreed with the district court's injunction of portions of the law related to permitting fees, private property requirements, liability

insurance requirements, and restrictions on private vehicles, among other sections, as inconsistent with the Second Amendment. As a threshold issue, the panel majority specifically rejected the state's arguments that a state acting as proprietor of its own land need not justify firearms restrictions on state property generally under the Second Amendment. In analyzing this issue, the panel majority differentiated pre-*Bruen* decisions from the [D.C. Circuit](#) and [Ninth Circuit](#) and [recognized](#) a disagreement with a post-*Bruen* statement of the [Ninth Circuit](#), allowing states to exclude firearms from their property in the same way as a private party. Instead, the panel majority determined that *Bruen* required that a state's exclusions of firearms on state property undergo analysis under its history-based framework, under which analogous historical laws protecting sovereign functions and officials would be considered as relevant (*Koons v. Att'y Gen. New Jersey*).

- **Firearms:** The Eleventh Circuit vacated a defendant's conviction under [18 U.S.C. § 922\(g\)\(1\)](#), often referred to as the felon-in-possession prohibition, which generally prohibits a person who is convicted of a crime punishable by imprisonment for a term exceeding a year from possessing a firearm. The defendant had been convicted under Alabama law for a crime that was broadly punishable by more than a year of imprisonment. Another Alabama law, however, entirely foreclosed imprisonment for someone with the defendant's limited prior criminal history. The panel noted that whether a defendant's conviction qualifies under Section 922(g)(1) could be either (a) an offense-specific inquiry—requiring only that the imprisonment for the underlying conviction had the possibility of being over a year—or (b) a defendant-specific inquiry—requiring the length of potential imprisonment applicable to the specific defendant to be over a year. The panel read [two](#) analogous Supreme Court [decisions](#) to require a defendant-specific inquiry, joining the [Fourth](#), [Eighth](#), [Ninth](#), and [Tenth](#) Circuits, which it observed had all overturned previous comparable circuit precedents in light of these Supreme Court decisions. The panel noted that, even after the Supreme Court's decisions, the [D.C. Circuit](#) appeared to maintain an offense-specific application of the term of imprisonment in Section 922(g)(1), although it had not discussed any of the recent countervailing authority. The Eleventh Circuit applied the defendant-specific inquiry to the defendant's case and overturned his conviction because he could not have been subject to imprisonment for his violation of Alabama law and therefore was not federally prohibited from possessing a firearm (*United States v. Gaines*).
- **Immigration:** The Fifth Circuit rejected an alien petitioner's claim that the Board of Immigration Appeals erred in refusing to consider his second motion to reopen removal proceedings. Under [8 U.S.C. § 1229a\(c\)\(7\)\(A\)](#), most aliens subject to removal orders may file only one motion to reopen a removal proceeding. Aligning with [some appellate courts](#) but diverging from the [Second](#) and [Ninth](#) Circuits, the Fifth Circuit held that the statutory limit on motions to reopen is not subject to equitable tolling that would allow consideration of more than one motion to reopen when extraordinary circumstances exist beyond the petitioner's control (*Garcia Morin v. Bondi*).
- **Securities:** The Ninth Circuit upheld a lower court's disgorgement award in a securities enforcement action under [15 U.S.C. § 78u\(d\)\(5\)](#) and [\(d\)\(7\)](#). The defendant contended that the Securities and Exchange Commission failed to show that investors who were defrauded by the defendant's actions suffered pecuniary harm. Splitting with the [Second Circuit](#) and agreeing with the [First Circuit](#), the Ninth Circuit held that a showing that investors suffered pecuniary harm is not required for a disgorgement award to be granted (*U.S. Sec. & Exch. Comm'n v. Sripetch*).

- **Telecommunications:** The Second Circuit denied a telecommunications provider’s petition for review of a Federal Communications Commission (FCC) enforcement action concerning the mishandling of customer location data, which resulted in a monetary forfeiture order exceeding \$40 million. In doing so, the court rejected the provider’s argument that the FCC’s forfeiture action under [47 U.S.C. § 503\(b\)\(4\)](#) violated the provider’s [Seventh Amendment](#) right to a jury trial in an Article III forum. Assuming that the Seventh Amendment right applied, the Second Circuit nevertheless concluded that the provider had waived that right. The panel noted that a forfeiture penalty under Section 503(b)(4) is enforceable through [47 U.S.C. § 504\(a\)](#), which allows the government to pursue the fine via a “trial de novo” in federal court. The court held that the provider waived its right to a jury trial by choosing to pay the forfeiture penalty following administrative proceedings, rather than refusing to pay and preserving its right to a jury trial if the government sought judicial enforcement. In reaching this conclusion, the Second Circuit diverged from [the Fifth Circuit](#), which has held that a trial under Section 504(a) does not satisfy the Seventh Amendment because it follows an administrative adjudication under Section 503(b)(4) and the imposition of fines. The Second Circuit also disagreed with a decision in another [Fifth Circuit](#) case that a defendant in a Section 504(a) proceeding cannot challenge the FCC’s legal interpretations or raise constitutional objections. According to the Second Circuit, the “trial de novo” provision allows defendants to contest both the legal and factual foundations of a forfeiture order in a Section 504(a) proceeding (*Verizon Commc’ns Inc. v. FCC*).

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