



SCOTUS: West Virginia vs EPA

Topline Message:

- Despite the piling burdens on Americans via the expiration of Obamacare subsidies, the cost of gas, and inflation, SCOTUS decided its best to kick people when they're down.
- For over 5 decades, the EPA and the CAA, have both been massively popular and have held bipartisan support.
- Biden and Congress must step up to protect our planet and its people.
- Stripping EPA of authorities to address power plant emissions would be catastrophic, and a huge blow to addressing climate change.

What's Happening?

- In June, the Supreme Court will rule (in West Virginia v. the Environmental Protection Agency) on EPA's power under the Clean Air Act to address emissions that cause climate change, undermining half a century of health, environmental, and climate justice advocacy.
- Members of the Supreme Court, which holds a conservative majority, have questioned the EPA's ability to regulate carbon emissions from power plants.
- Should the ruling go against the EPA, it would cut back the EPA's ability to regulate the energy sector, limiting it to measures like emission controls at individual power plants.

What's the Impact?

- The Clean Air Act has been key in protecting the often black, brown, and low-income communities who live in the shadows of giant polluters against powerful utilities and the toxic fumes and exorbitant costs their fossil fuel plants drum up.
- An adverse ruling in this case would give unelected federal judges across the country unprecedented ability to strike down or limit environmental regulations.
- It would block the EPA from doing what it was designed to do, protect the environment.
- Allow fossil fuel companies and Republican fanatics want to prevent the EPA from regulating emissions under the CAA.

Together, the Clean Air Act and the EPA have:

- Reduced national climate change causing emissions by 63% between 1980 and 2015.
- Lowered toxic air pollutants levels including lead, arsenic, particulate matter, NOX, and carbon monoxide
- Repaired the ozone layer by reducing CFCs
- Reversed the smog and acid rain crises of the 1980s and 1990s
- Prevented 230,000 early deaths and averted 120,000 emergency room visits in 2020
- Saved 5.4 million potential lost school days for students who otherwise would suffer debilitating respiratory illness in 2020
- Created human health and other benefits that exceed the costs by a 30-1 ratio, with most of the economic benefits due to reduced premature mortality

Note: States that are most affected by WV vs EPA are the States that are petitioners in the case. They tend to have coal power plants and lots of impacted communities: West Virginia, Alabama, Alaska, Arkansas, Georgia, Indiana, Kansas, Louisiana, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, and Wyoming



Background

This case asks the Supreme Court to consider the statutory limitations imposed on the Environmental Protection Agency by the Clean Air Act when it attempts to regulate emissions emanating from stationary sources. Petitioner West Virginia argues that the Court should not allow the EPA to issue significant rules that can reshape the country's electricity grids and thus expand the agency's power to an unprecedented level. Respondent the Environmental Protection Agency ("EPA") responds that the Court should not read into the text an artificial restriction because any qualification will be directed at the states, not the federal agency. The Court's decision in this case has heavy implications for the scope of federal administrative power, climate change policy, and statutory interpretation.

The Argument

West Virginia argues that Congress did not clearly authorize the EPA to take any measure it deems helpful to reduce carbon emissions solely by administrative rule-making.

- According to West Virginia, under the major-questions doctrine, if the power at issue has vast economic and political impact, Congress needs to delegate it to an administrative agency with clear and unambiguous language.
- West Virginia argues that Section 7411 does not provide the requisite clear congressional authorization.
- According to West Virginia, the only evidence that the federal statute clearly authorizes such power stems from the phrase "best system of emission reduction" in Section 7411(a)(1).
- West Virginia contends that the phrase, by itself, is unable to support the lower courts' overbroad interpretation of Section 7411.

West Virginia further argues that the power at issue is undoubtedly significant: according to the D.C. Circuit's interpretation, it says, Congress authorizes the EPA to determine which method comprises the "best system" for a regulated source. West Virginia contends that, per the D.C. Circuit's view, the EPA could take almost any measure to compel stationary sources to meet a given standard of performance, such as shutting down carbon-emitting facilities and banning the importation of carbon-intensive goods. West Virginia further argues that the scope of the D.C. Circuit decision's implicit grant of authority is also unprecedented, tacitly permitting the EPA to regulate any building that uses or produces carbon-generating power.

The EPA refutes West Virginia's argument that the major-questions doctrine requires a narrow reading of Section 7411(d)(1)(A).

- According to the EPA, the principal language of Section 7411 is directed not at the EPA, but rather at the states (when they devise and implement their own regulatory police powers in coordination with the EPA rule).
- The EPA argues that the Court has never restrained the police power of the states while interpreting a federal regulation.
- The EPA contends that the issue of whether the regulation involves a major question must be decided on a case-by-case basis; even if some exercises of an agency's power might implicate the major-questions doctrine, the EPA contends, it does not follow that all exercises of that power are categorically forbidden.

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