

The Supreme Court Update - April 14, 2023

by Brock Huebner

Today, the Supreme Court of the United States issued one decision:

Axon Enterprise, Inc. v. FTC and SEC v. Cochran, Nos. 21-86, 21-1239: These cases address the proper timing and venue for asserting constitutional challenges to agency proceedings. In both cases, the respondents sued in federal district court, seeking to enjoin agency proceedings against them on grounds that the ALJs' appointment was unconstitutional. In the Axon case, the Ninth Circuit held that the district court lacked jurisdiction to hear the suit because the challenge could be made only by a petition in the court of appeals after conclusion of the agency action. In the Cochran case, the Fifth Circuit reached the opposite conclusion.

Today, in a nearly unanimous decision authored by Justice Kagan, the Court held that the district courts have jurisdiction to hear the suits and to resolve the parties' constitutional challenges. The Court explained that the "ordinary statutory review scheme does not preclude a district court from entertaining these extraordinary claims." Justice Thomas filed a concurring opinion, and Justice Gorsuch filed an opinion concurring in the judgment.

Read the Court's [decision](#).

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