

## SCOTUS Opinion: Court Blocks CDC Moratorium On Evictions

27 Aug 2021

Congress twice passed a law imposing a moratorium on certain types of eviction during the COVID-19 pandemic, but the Centers for Disease Control and Prevention each time extended the moratorium, claiming authority under Section 361(a) of the Public Health Service Act. That statute permitted the CDC to “make and enforce such regulations as . . . are necessary to prevent the introduction, transmission, or spread of communicable diseases” and permitted “inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated . . ., and other measures as . . . may be necessary.” The first time the moratorium extension was challenged, a bare majority of the Court declined to vacate a stay on a judgment blocking the extension because the moratorium was set to expire in just a few weeks. However, the CDC re-imposed the moratorium shortly after it expired, and the case came before the Court again after the district court ruled that the moratorium was illegal but stayed its judgment pending review on appeal.

The Court, in a 6-3 *per curiam* decision, vacated the stay and made the judgment enforceable, holding that the moratorium exceeded the authority granted under Section 361(a) of the Act, noting that the CDC’s reading of the statute would provide “no limit” to the agency’s powers. The majority determined that it was “up to Congress, not the CDC, to decide whether the public interest merits further action here.” Justice Breyer, joined by Justices Sotomayor and Kagan, dissented, arguing that the CDC’s moratorium was narrow in scope and permissible under the Act.

A link to the ruling in *Alabama Association of Realtors v. Department of Health and Human Services* is here: [https://www.supremecourt.gov/opinions/20pdf/21a23\\_ap6c.pdf](https://www.supremecourt.gov/opinions/20pdf/21a23_ap6c.pdf)

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**TAGGED:** COVID-19, Moratorium, Centers for Disease Control and Prevention, Public Health Service Act, Alabama Association of Realtors v. Department of Health and Human Services, Pandemic