



Written by [Bob Adelman](#) on February 26, 2021

Federal Judge Slaps Down CDC Order Stopping Residential Evictions

[In his ruling](#) Thursday against the CDC's unconstitutional overreach, U.S. District Court Judge J. Campbell ("Cam") Barker declared, "Although the COVID-19 pandemic persists, so does the Constitution."

At issue was whether a federal agency — in this case the Centers for Disease Control and Prevention, or CDC — had the power to prevent landlords from evicting tenants during the pandemic. Or, in the words of Barker, "whether the federal government has [the] authority to order property owners not to evict specified tenants."



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Barker continued:

Here, after analyzing the relevant precedents, the court concludes that the federal government's Article 1 power to regulate interstate commerce and enact laws necessary and proper to that end does not include the powers to impose the [CDC's order].

The order from the CDC ignored any such constitutional restraints, declaring unilaterally its power "to ... halt residential evictions to prevent the further spread of COVID-19."

Its order had no time limit:

Under this Order, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property ... during the effective period of the Order.

Thou shalt obey, or else, said the CDC: Anyone who violated the order could face up to a year in jail and a fine of up to \$250,000.

The lawsuit was brought by several plaintiffs who either owned rental properties or managed them, and was presented to the court by the Southeastern Legal Foundation (SLF) and the Texas Public Policy Foundation (TPPF).

When the lawsuit was originally filed last October, TPPF General Counsel Robert Henneke stated, "The federal government cannot interfere with private property rights or our clients' access to the courts to exercise their rights under state law. The CDC uses a facially absurd and twisted logic to suggest its intrusion into private property rights is a public health issue." This logic, he added, "has inevitably and predictably allowed [politicians and government agencies] to exploit the [issue]."

Following the decision, the legal groups said that this ruling is likely to be the first of many:



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[This] decision is the first of what will ultimately be many decisions by the federal courts rolling back the executive and regulatory overreach of the administrative state....

The current administration has shown no restraint.

We are preparing cases across the constitutional spectrum to defend against unrestrained government action.

Much comfort may be drawn from this case: There are judges who understand and will defend the Constitution when it is assaulted; “Cam” Barker was a Trump appointee; governmental overreach is generating many similar court cases and lawsuits; and the court system is the final arbiter and backstop or roadblock to unlimited federal tyranny using the COVID-19 scare as an excuse.

Although Trump’s appointees to the Supreme Court have greatly disappointed many by ignoring legitimate constitutional issues surrounding the 2020 presidential election, the more than 200 federal judges appointed by Donald Trump, including Barker, are going to have a lot more to say about defending and restoring the Constitution to its rightful and proper place in restraining governmental overreach.



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