

The United States Supreme Court Holds that Federal District Courts May Hear Structural Constitutional Challenges to Ongoing SEC and FTC Enforcement Proceedings

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Although federal district courts have original jurisdiction over “civil actions arising under the Constitution, laws, or treaties of the United States,” 28 U.S.C. § 1331, Congress can authorize administrative law judges (“ALJs”) – rather than federal district courts – to hear certain disputes in the first instance, subject to review by federal courts of appeal. To that end, Congress has empowered two federal agencies – the Securities and Exchange Commission (“SEC”) and Federal Trade Commission (“FTC”) – to address violations of the Securities Exchange Act of 1934 (“Exchange Act”) and the Federal Trade Commission Act (“FTC Act”), respectively, through proceedings overseen by ALJs. This review scheme has resulted in inconsistent rulings in the lower courts, where plaintiffs have raised constitutional challenges to agency proceedings under the separation of powers doctrine. While the U.S. Court of Appeals for the Fifth Circuit had held that federal district courts lack jurisdiction to hear such claims, the U.S. Court of Appeals for the Ninth Circuit had reached the opposite conclusion, creating a circuit split. On April 14, 2023, the Supreme Court resolved this split, holding that district courts have jurisdiction to hear structural constitutional challenges to agency enforcement proceedings.

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