



215 Pennsylvania Avenue, SE • Washington, D.C. 20003 • 202/546-4996 • [www.citizen.org](http://www.citizen.org)

**Fact Sheet: The Supreme Court’s Decision in *AIDS Vaccine Advocacy Coalition v. Department of State and Global Health Council v. Trump***

**Executive Summary**

- On September 26, 2025, the Supreme Court issued a decision that permits the Administration to unilaterally impound \$4 billion of Congressionally appropriated foreign assistance funding.
- As Justice Kagan recognized in dissent, “[T]he stakes are high: At issue is the allocation of power between the Executive and Congress over the expenditure of public monies.”
- The decision allows the Administration to engage in a “pocket rescission”—that is, to propose a rescission within 45 days of the expiration of the funds, thereby allowing the funds to expire without Congressional approval.
- This decision poses a serious threat to the separation of powers. Unless Congress acts, the President will likely be empowered to ignore future appropriations laws.

**Background and Procedural History**

- Plaintiffs in two related cases—*AIDS Vaccine Advocacy Coalition v. Department of State and Global Health Council v. Trump*—are recipients of State Department and USAID grants and contracts to perform foreign assistance work across the world.
- After the President froze foreign assistance on January 20, Plaintiffs filed suit, seeking to restore the flow of federal funds and to continue their humanitarian work. They alleged constitutional separation-of-powers claims, claims that the Executive acted arbitrarily and capriciously and contrary to law under the Administrative Procedure Act (APA), and claims that the Executive acted ultra vires in suspending foreign assistance.
- On February 13, the district court issued a temporary restraining order (TRO). It concluded that the Administration’s blanket suspension of foreign assistance funds was likely arbitrary and capricious under the APA, and enjoined Defendants from suspending foreign assistance funds and from giving effect to terminations, suspensions, or stop-work orders in connection with foreign assistance awards in existence as of January 19.
- The government failed to comply with the TRO. The district court granted a motion to enforce the TRO, giving the government 36 hours to unfreeze payment for work completed prior to the TRO’s issuance on February 13.

- Defendants appealed to the D.C. Circuit and then to the Supreme Court, which denied the government's application to vacate the district court's order. The government has since been (slowly) making payments to recipients of foreign assistance awards for work completed prior to February 13.
- Plaintiffs sought a preliminary injunction on an expedited basis. The district court granted the preliminary injunction, primarily on the basis of Plaintiffs' constitutional claim that the Executive violated the separation of powers by unlawfully impounding Congressionally appropriated foreign assistance funds.
- The government appealed, and the D.C. Circuit vacated the order, holding that Plaintiffs lacked a cause of action under the Constitution to challenge impoundments. It also held that Plaintiffs could not bring a claim to enforce the Impoundment Control Act. But it left open the possibility that Plaintiffs could bring a claim to enforce the substantive appropriations laws through a claim under the APA.
- The Administration then submitted a special message to Congress proposing rescission of \$4 billion of Congressionally appropriated foreign assistance funds. Although the Impoundment Control Act affords Congress 45 days to consider a rescission proposal (and the Executive must spend funds proposed for rescission absent Congressional action), here, the Executive submitted the special message within 45 days of the funds' expiration at the end of the fiscal year on September 30. The Administration claims that this tactic, known as a "pocket rescission," allows them to impound funds absent Congressional action by proposing a rescission and waiting for the funds to lapse.
- Plaintiffs once again sought a preliminary injunction before the district court. The district court granted the motion on September 3, determining that the withholding of appropriated funds violates the appropriations acts and ordering the Administration to obligate appropriated funds, consistent with the purposes specified by Congress. It also rejected the Administration's argument that it could withhold those funds via a pocket rescission.
- The Administration sought to stay the injunction. The district court denied the Administration's motion. The D.C. Circuit likewise denied a stay. The Administration then sought an emergency stay before the Supreme Court.
- On September 9, Chief Justice Roberts granted an administrative stay—thereby releasing the Administration from the obligation to comply with the injunction by taking steps to obligate the expiring funds before September 30.
- On September 26, the Supreme Court granted the stay.

## **Holding**

- In granting the stay, the Supreme Court held that the Administration made a sufficient showing that the Impoundment Control Act precluded Plaintiffs from bringing a claim to enforce the appropriations laws under the Administrative Procedure Act. It also determined that, on the record before the Court, the Executive's claimed harm from compliance with the appropriations statutes—namely, that it would affect the Administration's foreign

affairs priorities—appeared to outweigh the harm faced by Plaintiffs from being deprived of the funds. It noted, however, that the decision was not a final determination on the merits.

- Justice Kagan, joined by Justices Sotomayor and Jackson, dissented.
  - The dissent emphasized that the case was not an appropriate use of the Court’s authority to grant emergency relief.
  - It also noted that the Administration had not made a strong showing on the merits because the text of the Impoundment Control Act refutes the notion that the Act precluded private enforcement of appropriations laws.
  - The historical context likewise made clear that the Impoundment Control Act was not intended to preclude suits like Plaintiffs’, which had helped Congress win in Nixon-era impoundment-related confrontations with the President.
  - Finally, it noted that the irreparable harm supposedly faced by the Executive was “just the price of living under a Constitution that gives *Congress* the power to make spending decisions through the enactment of appropriations laws. If those laws require obligation of the money, and if Congress has not by rescission or other action relieved the Executive of that duty, then the Executive must comply.”

### **Takeaways**

- A majority of the Supreme Court has signaled that it believes the Impoundment Control Act—legislation that Congress passed to retain its power of the purse after President Nixon repeatedly attempted to impound appropriations—actually *prevents* private litigants from challenging impoundments.
- The decision is, effectively, an invitation from the Court for the President to continue illegally impounding funds.
- Congress must reassert its constitutional authority.