



NCLA Wins Repeal of Judicial Deference Doctrine by Sixth Circuit

U.S. v. Jeffrey Havis

WASHINGTON, DC- Today, the full Sixth Circuit Court of Appeals **reversed its prior decision** and ordered resentencing in ***United States v. Jeffery Havis***. In no uncertain terms, the Sixth Circuit concluded that certain sentencing enhancements set forth by the U.S. Sentencing Commission, in unapproved commentary, cannot be used as a basis for increasing a federal prison sentence. The Commission’s formal guidelines must be approved by Congress, and the Commission bypassed that process here. As a result of today’s decision, Havis, who was sentenced to 46 months in prison, will most likely get his sentenced reduced by more than half under the recommended Sentencing Guidelines. This decision will also impact hundreds of other criminal defendants within the Sixth Circuit.

While courts may consider an agency’s views and adopt them *when persuasive*, prior Sixth Circuit law erred by instructing lower federal courts to treat the Sentencing Commission’s commentary as “authoritative.” Mandatory deference raises due process and other grave constitutional concerns. The decision of the Sixth Circuit as a whole corrected circuit law and reined in undue—and unconstitutional—deference.

“Today the Sixth Circuit forcefully told the U.S. Sentencing Commission that as an administrative agency it cannot establish federal sentencing policy without seeking Congressional approval. The Commission had decided on its own to dramatically increase the presumptive prison sentences for a whole class of federal defendants. This decision not only rebukes the Commission’s policy but will result in the much lower prison sentences that Congress *actually* approved.” —**Caleb Kruckenberg, Litigation Counsel, NCLA**

NCLA filed an **amicus brief** in November urging the full Court to correct its circuit law.

ABOUT NCLA

NCLA is a nonprofit civil rights organization founded by prominent legal scholar **Philip Hamburger** to protect constitutional freedoms from violations by the administrative state. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unchecked power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights. For more information visit us online: **NCLAlegal.org**.

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