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NCLA Encourages Alaska Supreme Court to Discard Judicial Deference that Violates Constitution

Williams Alaska Petroleum, Inc., et al. v. State of Alaska, et al.

Washington, DC (December 23, 2020) – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, filed an [amicus brief](#) in the Supreme Court of Alaska in *Williams Alaska Petroleum, Inc., et al. v. State of Alaska, et al.* NCLA is asking the court not to defer to a legal interpretation made by the Alaska Department of Environmental Conservation (DEC). Instead, NCLA argues that Alaskan courts need to interpret the law without deferring to the agency’s interpretation.

NCLA’s brief argues that deferring to a state agency’s statutory interpretation violates both the state and federal constitutions for two reasons. First, agency deference requires judges to abandon their duty of independent judgment, which is also part of the judicial oath. Second, agency deference violates the Due Process Clauses of the Alaska Constitution and the U.S. Constitution by commanding judicial bias toward a litigant. If a court defers to the legal interpretation of one of the parties before the court—such as an agency of the State of Alaska—that denies a fair trial before a neutral tribunal to the other party before the court.

This *amicus curiae* brief takes no position on any other issues raised on appeal. Although the parties are fighting in part over whether DEC’s statutory interpretation is correct, NCLA contends that the Alaska Supreme Court should not defer to DEC regardless of whether DEC’s reading of state law is right or whether it is wrong. Alaska’s highest court should join the growing nationwide trend of other states like Wisconsin, Mississippi, Arkansas, Arizona and Florida that have recently abandoned the practice of judicial deference to agency legal interpretations.

NCLA released the following statement:

“If courts defer to administrators’ interpretations of statutes, that deference irretrievably harms the nongovernmental litigants’ constitutional right to due process of law.”

— **Adi Dynar, Litigation Counsel, NCLA**

ABOUT NCLA

NCLA is a nonpartisan, nonprofit civil rights group 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 unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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