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**Watch: NCLA Video Explains Why U.S. Supreme Court Must Resolve *Chevron* Deference Discord**

*Aposhian v. Garland, et al.*



*Photo:* View of the U.S. Capitol from the U.S. Supreme Court, Washington, D.C.

**Washington, DC (October 14, 2021)** – A recent [petition](#) for a *writ of certiorari* filed in August in the U.S. Supreme Court by the New Civil Liberties Alliance calls upon the highest court in the land to address the discord in lower courts regarding the application of *Chevron* deference to agency statutory interpretations that criminalize otherwise lawful conduct. Today, NCLA, a nonpartisan, nonprofit civil rights group, released a [video](#) highlighting the sweeping implications for agency deference at stake in the lawsuit, *Aposhian v. Garland, et al.*

NCLA is asking the Court to address the two central issues in this case: (1) whether *Chevron* deference applies even when the federal government waives that deference, as the Bureau of Alcohol, Tobacco, Firearms and Explosives did here; and (2) whether, if a court determines that a statute with criminal-law applications is ambiguous, the court must then apply the rule of lenity (rather than *Chevron*) and construe the ambiguity in favor of the criminal defendant.

Twenty states and prominent civil rights groups have [filed amicus briefs](#) in support of NCLA’s cert. petition.

**Excerpts from the video:**

“This is not the first time these two issues have been before the Court. And the Court denied *certiorari* on those very same issues. But Justice Gorsuch issued an opinion in which he said these are very important issues for Supreme Court review and resolution. We hope the Court is going to say ‘yes, it’s time to clear up this confusion and answer these issues.’”

— **Chuck Cooper, Chairman and Partner, Cooper & Kirk, PLLC**

“There are several reasons why the Supreme Court takes cases. The most important reason is the reason that exists here, which is that the lower courts are in disarray as to what the meaning of *Chevron* deference is.”

— **Rich Samp, Senior Litigation Counsel, NCLA**

“If we interpret ambiguous statutes in a way that creates new criminal penalties for folks, we’re sending people to jail for conduct that they had every reason to think was innocent conduct, and that’s wrong. ... What’s at stake here isn’t just this policy, it’s all policy, because if this agency can rewrite this statute, then any agency can rewrite any statute down the road.”

— **Mark Chenoweth, Executive Director and General Counsel, NCLA**

**For more information visit the case page [here](#).**

## **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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