



Written by [Michael Tennant](#) on August 10, 2021

Biden's Eviction Moratorium "Has No Binding Authority," Says Ohio Court

An Ohio court declared Thursday that the Biden administration's reinstated moratorium on tenant evictions will not be enforced within its jurisdiction.

According to [WXIX-TV](#), after the judges of the Hamilton County Municipal Court voted on whether to enforce the moratorium, the court issued a statement saying the ban "has no binding authority in Hamilton County."

Under former President Donald Trump, the Centers for Disease Control and Prevention (CDC) first instituted a nationwide ban on evictions last September following the expiration of a congressionally imposed moratorium. Congress later extended the ban through the end of January, and the CDC lengthened it thrice more.



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Landlords, furious at seeing their property rights eviscerated, filed suit. Federal district and appeals courts offered conflicting opinions on the legality of the ban, leaving the Supreme Court to make the final decision.

The high court ruled 5-4 in June that the CDC had exceeded its statutory authority. A [concurring opinion](#) by Justice Brett Kavanaugh stated, "Clear and specific congressional authorization (via new legislation) would be necessary for the CDC to extend the moratorium past July 31." (Constitutionalists, of course, recognize that a congressional ban would be just as unconstitutional as an executive one, but at least Kavanaugh understood that only Congress, not the president, is empowered to make law.)

On July 29, the White House issued a [statement](#) seemingly accepting the Supreme Court's decision. While "President Biden would have strongly supported a decision by the CDC to further extend this eviction moratorium," the statement reads, "the Supreme Court has made clear that this option is no longer available." Thus, Biden instead asked Congress to extend the moratorium.

Five days of congressional inaction later, Biden had the CDC extend the moratorium anyway. "Biden admitted that he is extending the moratorium knowing that 'the bulk of the constitutional scholars say it's not likely to pass constitutional muster,' and that his plan is to run out the judicial clock since 'by the time it gets litigated, it will probably give some additional time' for the administration to get 'that \$45 billion out to people who are, in fact, behind in the rent and don't have the money,'" reported [The New American](#).

The president may have been a little too optimistic. Just two days later, the Ohio judges quite properly nullified his action, at least in Hamilton County.

They did not rely directly on the Supreme Court's finding, however. Instead, reported WXIX, they based



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their decision on a July 23 [ruling](#) from the Sixth Circuit Court of Appeals, perhaps in part because that court is seated in Cincinnati, the county seat of Hamilton County. That decision, which cited Kavanaugh's concurring opinion, found that the law under which the CDC claimed the authority to impose its ban was "not as capacious as the government contends," and therefore the ban was illegal. "There is no clear expression of congressional intent ... to convey such an expansive grant of agency power, and we will not infer one," the judges wrote.

The Hamilton County judges, it must be noted, decided against the prolonged moratorium in the face of intense political pressure to ratify it. According to [WVXU](#):

Officials and community leaders gathered in front of the county courthouse Thursday morning with two main messages for the judges.

"Number one, if you are a tenant or a landlord, there is still millions of dollars available for emergency rental assistance and utilities assistance available to you right now," said Aftab Pureval, Hamilton County Clerk of Courts. "And number two, we together strongly urge the court to honor the CDC moratorium. In the middle of a pandemic — and yes, we are still in the middle of this pandemic — it is just wrong to evict people."

Apparently, though, it is perfectly acceptable to destroy landlords' livelihoods — not to mention their ability to maintain their properties — in the middle of a pandemic that Pureval and other politicians hope to continue exploiting in perpetuity.

Fortunately, the judges were not swayed by these appeals. Instead, they correctly held that the executive branch has no authority to regulate beyond that granted by Congress. Constitutionalsists can only hope this is the first in a long line of courts to repudiate Biden's self-confessed power grab.



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