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Article 7

Advocates Urge Use Of Rent Relief After Court Strikes Eviction Moratorium

Ohio advocacy groups are asking judges to ensure tenants have access to rent relief after the U.S. Supreme Court blocked a Biden Administration moratorium on evictions late Thursday.

The nation's highest court issued its **unsigned decision** Thursday night vacating a stay in a challenge to the U.S. Centers for Disease Control and Prevention's moratorium on evictions in areas with a high or substantial spread of COVID-19. (See **Gongwer Ohio Report, August 4, 2021**)

"It is indisputable that the public has a strong interest in combating the spread of the COVID-19 Delta variant," the court wrote. "But our system does not permit agencies to act unlawfully even in pursuit of desirable ends."

Further, the court said the CDC lacked the authority to create impose the moratorium, saying if any such moratorium should continue, Congress must specifically authorize it.

"It is up to Congress, not the CDC, to decide whether the public interest merits further action here," the decision said.

Justice Stephen Breyer, in a dissent joined by Justices Sonia Sotomayor and Justice Elena Kagan, took issue with the majority's decision to act by vacating a lower court's stay without briefings or arguments.

"Applicants raise contested legal questions about an important federal statute on which the lower courts are split and on which this Court has never actually spoken," he wrote. "These questions call for considered decisionmaking, informed by full briefing and argument. Their answers impact the health of millions. We should not set aside the CDC's eviction moratorium in this summary proceeding. The criteria for granting the emergency application are not met."

In response, the Coalition on Homelessness and Housing in Ohio and the Ohio Poverty Law Center

encouraged local judges to continue to delay individual eviction cases and allow the parties involved to apply for emergency rental assistance.

"This rent relief program is a win-win for both tenants and landlords, but the process can take weeks because local agencies are overwhelmed with applications," COHHIO Executive Director Bill Faith said in a statement. "Without a moratorium, we're concerned that more families will get evicted while waiting for their Emergency Rental Assistance applications to get processed."

Added Graham Bowman, attorney for the Ohio Poverty Law Center: "Local courts can prevent a wave of evictions and homelessness this winter by using rent relief to broker agreements that make landlords whole and keep tenants safely housed. We shouldn't rush to evict, especially now that assistance is available and the Delta variant is spreading so rapidly in Ohio."

While the CDC instituted the new moratorium earlier in the month, not all courts in Ohio said they would follow it. Franklin County Municipal Court said it would instead follow a July ruling by the Sixth Circuit Court of Appeals stating the CDC lacked the authority to institute the moratorium and that courts in Ohio, Michigan, Kentucky and Tennessee were not bound by it. (See **Gongwer Ohio Report, August 6, 2021**)

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