

US courts revoke emergency protections in coronavirus pandemic

By Trévon Austin
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Over the past week, the US Supreme Court and the Texas Supreme Court have issued a series of antidemocratic decisions that place countless lives at risk and increase the hardships faced by workers in the coronavirus pandemic.

On Thursday, the US Supreme Court declined to reinstate an order requiring Texas prisons to provide proper safeguards against the coronavirus. Two prisoners, Laddy Valentine, 69, and Richard King, 73, filed a class action lawsuit on behalf of inmates against a geriatric prison in Grimes County, Texas. Valentine and King argued that the prison's lack of safeguards violated the constitutional ban against cruel and unusual punishment. The prison, Wallace Pack Unit, holds over 1,200 inmates, 827 of whom are over 65. Leonard Clerkly, an inmate at the prison, died last month of complications from COVID-19. Since then, other prisoners have tested positive for the virus.

A district court had ruled in favor of the prisoners and ordered the prison to implement multiple safety measures, including access to hand soap and hand sanitizer in public areas. Additionally, the prison was required to provide a detailed plan to test all inmates. The court also mandated cleaning and disinfecting protocols and ordered the prison to educate inmates on the pandemic.

In issuing the decision last month, District Judge Keith P. Ellison said, "The government has a constitutional duty to protect those it detains from conditions of confinement that create a substantial risk of serious harm."

A week later, the US Court of Appeals for the Fifth Circuit, based in New Orleans, put Ellison's order on hold pending an appeal. A three-judge panel argued that the district court's requirements went further than the recommended guidelines issued by the US Centers

for Disease Control and Prevention (CDC). While the panel admitted that COVID-19 poses a risk of "serious or fatal harm," it asserted that many of the protective measures already taken by the prison already matched the district court's order.

Valentine and King asked the US Supreme Court to reinstate the district court order, but the justices denied the request. In court briefs, Texas argued that its Department of Criminal Justice (TDCJ) had worked "diligently" to protect prisoners from the pandemic. "Much of the relief plaintiffs sought involved safety measures already in place," Texas Attorney General Ken Paxton told the Supreme Court.

He added, "Plaintiffs have not shown any irreparable harm because there is no evidence that TDCJ's COVID-19 measures are inadequate, nor is there any evidence that the district court's laundry list of commands will protect them any better than what Defendants are already doing."

None of the "liberal" justices on the Supreme Court dissented from the decision. Justices Sonia Sotomayor and Ruth Bader Ginsburg wrote that they supported the court's decision but held reservations on certain "disturbing" details of the case.

In another attack on democratic rights, the Texas Supreme Court ruled Friday to place a hold on an expansion of voting by mail-in ballots during the pandemic. The court blocked a lower court's decision allowing voters without immunity to the coronavirus to qualify for absentee ballots by claiming a disability. Efforts to curb mail-in voting, spearheaded by the Trump administration and the Republican Party, are justified with false claims that mail ballot fraud is rampant.

Attorney General Paxton asked the court to issue a hold after a state appeals court upheld a ruling from

state District Judge Tim Sulak, who argued that susceptibility to COVID-19 qualified as a disability under Texas’s election code. Voters would therefore have a legally valid reason to request an absentee ballot. States across the US have tried to implement more mail-in voting in lieu of in-person voting over concerns of spreading the coronavirus during a major election year.

In a statement after the Texas Supreme Court’s ruling, Paxton said the state legislature set strict requirements on mail-in voting and officials had to follow current eligibility rules. Paxton stated that the potential to catch the virus while voting in person does not meet Texas’s definition of a disability, defined as a “sickness or physical condition” that prevents voting in person without the risk of “injuring the voter’s health.”

The state Supreme Court did not rule on the merits of the case but stayed the orders of the lower courts pending an appeal. It set oral arguments in the case for Wednesday.

Its action follows the ruling last month by the Wisconsin Supreme Court overturning an order by the governor delaying a scheduled primary election. The court ordered the election to proceed as scheduled. Since the election, the rate of COVID-19 infections and deaths in Wisconsin has increased significantly. Last Friday, the state registered 502 new cases, the highest one-day total since the outbreak started.

Also on Friday, the Texas Supreme Court removed emergency protections against evictions and debt collections. In March, the court issued a hold on evictions as millions of Texas workers lost their jobs. In a seven-week span covering March and April, 1,803,174 Texans applied for unemployment benefits, more than in all of 2019.

However, the court’s new order allows eviction proceedings to resume in courts starting Tuesday. Eviction warnings and notices will be allowed to be posted on May 26. Chief Justice Nathan Hecht said the changes were part of the effort to reopen the state’s economy.

“The pandemic hit like a tornado, and we thought a statewide standstill would allow landlords and tenants to stop and take a breath, and maybe it would tone down fear for a little while,” Hecht said. “But the state’s trying to reopen, and we are all going to have to

deal fully with the hard issues that we face. These issues are hard on everyone—tenants, landlords, society, everyone.”

Under the ruling, restrictions on evictions set in place by the CARES Act remain in place. The law blocked evictions for tenants who receive federal rent assistance. Only about one third of Texas tenants fall under this category, meaning countless families could be made homeless.

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