

Federal Court Declares CDC Eviction Moratorium is Unconstitutional, But Does Not Enjoin the Order

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On Thursday, February 25, a Federal judge in the Eastern District of Texas ruled that the CDC tenant eviction order is unconstitutional, but did not enjoin the order. The case was brought by seven Texas landlords against the CDC, challenging the CDC moratorium order. The CDC moratorium applies to tenants who, among other things, declare economic hardship and earned \$99,000 or less in 2020 (\$198,000 for couples).

In a limited ruling, the Court granted declaratory relief to the seven landlord plaintiffs, holding that the Federal government does not have authority under the Constitution's Commerce Clause to create such a moratorium. However, the Court noted the states' inherent welfare and police powers in this area, stating that the "lawsuit does not question that the States may regulate residential eviction, as they have long done."

Given that the CDC stated it would "respect the declaratory judgment," the Court did not issue an injunction against the order. The limited scope of the Court's ruling leaves several issues unresolved - whether the CDC or other courts will consider the ruling to apply in any other jurisdiction, whether the CDC will appeal it, or whether any other court will, in other lawsuits, adopt the same reasoning in regard to the CDC order, remain to be seen.

A copy of the Court's order may be found here:

<https://www.dropbox.com/s/qt71rci75p5znj4/Texas%20ruling.pdf?dl=0>

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