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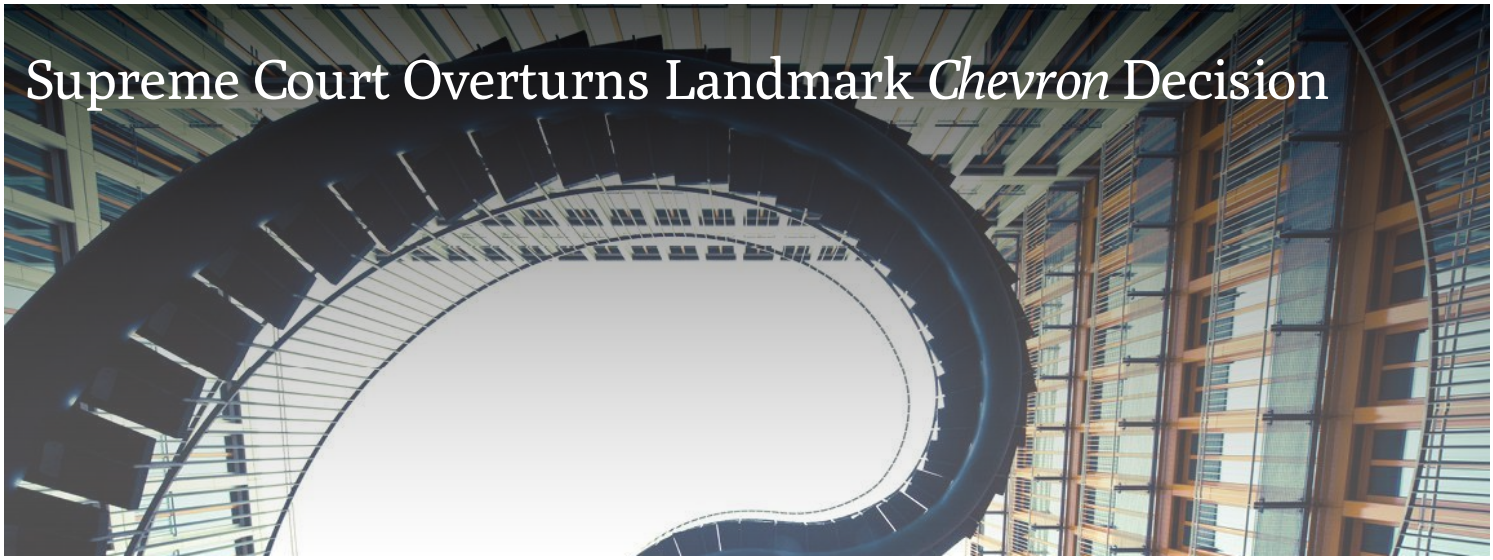

Supreme Court Overturns Landmark *Chevron* Decision

JULY 3, 2024

In *Loper Bright v. Raimondo* and *Relentless v. Department of Commerce*, the Supreme Court overruled its landmark decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.* (1984).

KEY POINTS

- Courts will now interpret federal statutes without being required to accept an agency's "permissible" interpretation of an ambiguous statute.
- The Administrative Procedure Act requires courts to exercise independent judgment when deciding whether an agency has acted within its statutory authority.
- Courts may still give persuasive weight or "careful attention" to an agency's views about ambiguous statutes, but the court must decide the best reading of the statute and resolve the ambiguity.

SUMMARY

The *Chevron* Doctrine

Federal administrative agencies derive their authority from the statutes that Congress directs them to administer. For the past 40 years under *Chevron*, courts applied a two-step analysis when reviewing an agency's exercise of authority. First, courts used traditional tools of statutory interpretation to determine whether the text directly resolved the issue. Second, if the text was silent or ambiguous, courts deferred to the agency if its interpretation was "based on a permissible construction of the statute," even if that was not the "best" interpretation. In other words, if an agency's interpretation was reasonable, courts deferred to it.

Loper and *Relentless*

The Magnuson-Stevens Fishery Conservation and Management Act established a "national program for the conservation and management" of the country's fishery resources. The law allowed the National Marine Fisheries Service to require fishing vessels to carry observers to collect data about fishing. The Service adopted a rule requiring ship owners to pay part of the cost of those observers. Some owners sued, but the reviewing courts applied *Chevron* to find in the agency's favor.

In a 6-3 decision, the Supreme Court held that *Chevron* deference violated the Administrative Procedure Act (APA) by improperly prioritizing agencies' interpretations over courts' interpretations. Writing for the majority, Chief Justice Roberts explained that Congress enacted the APA to serve as a "check" on administrative agencies' exercises of authority. The APA provides for judicial review of agency actions, and Section 706 of the APA establishes the scope of that review: "The reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action." Section 706(2)(a) requires courts to "hold unlawful and set aside agency action, findings, and conclusions found to be . . . not in accordance with law." In short, the majority explained, courts must "decide legal questions by applying their own judgment." And because the APA does not mention courts deferring to agencies, agency interpretations of statutes "are *not* entitled to deference."

The Court held, however, that reviewing courts may still "seek aid" or "guidance" from agency interpretations. The Court referred to its decision in *Skidmore v. Swift & Co.* (1946) when explaining that courts may sometimes give "weight" to agency interpretations. The Court did not explain in detail how lower courts should apply *Skidmore*, but it emphasized that agency interpretations may be particularly useful when they are "issued contemporaneously with the statute at issue" and "have remained consistent over time." The Court also recognized that Congress may expressly authorize an agency to define statutory terms or "fill in details of a statutory scheme." In that situation, a reviewing court's role would be limited to ensuring that the agency engaged in reasoned decision making.

Justice Kagan dissented, joined by Justices Sotomayor and Jackson. Justice Kagan objected to the majority's decision to reverse a "longstanding precedent at the crux of administrative governance," which she asserts reflects a "bald assertion of judicial authority." She also defended *Chevron* deference as appropriate because statutes "often contain ambiguities and gaps," and where Congress has not addressed an issue, it is proper for the Court to assume that it intended for the expert agency to fill in those gaps and have its construction control. The majority responded that administrative agencies "have no special competence in resolving statutory ambiguities"—but "courts do." And without textual support for presuming that Congress intended courts to defer to agencies, the APA's requirement that courts decide issues of law must control.

WHAT IT MEANS

Although the decision overturned *Chevron* itself, it claimed *not* to overturn 40 years of judicial decisions made using *Chevron* deference. The Court explained that the change in interpretive methodology did not "call into question" those decisions because the principle of "statutory stare decisis" still applies.

The decision will encourage new challenges to agency interpretations, but its full effect is not yet clear. How often *Chevron*'s end will result in courts interpreting statutes differently than agencies in close cases remains to be seen. The Court's decision leaves open the possibility that agency interpretations may still persuade courts, although the Court did not decide the exact "weight" that agency interpretations may carry under *Skidmore*. Also, as agencies issue new regulations with the knowledge that the *Chevron* era is over, they may put more effort into persuading courts that their statutory interpretations are correct.

View the opinion here.

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