

Ray L. Winstead Position Statement on Supreme Court Cases
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My perception is that most people are missing the main point of the recent rulings by the Supreme Court (WV v. EPA and Dobbs v. Jackson Women's Health Organization). The first case is not really about energy and climate change per se, and the second case is not really about abortion per se. I believe that people are erroneously conflating the issues that happen to involve energy and climate change in the first case and the important emotional issue of abortion in the second case with the decisions that really focus in on the overriding legal processes necessary to achieve any desired end result using our legal system. Clearly, I don't know the real motives of the people in the different branches of government dealing with any issue (and it bothers me that everyone these days seems to think they know the personal motives of everyone else), but I believe the general principle of the Supreme Court reining in the unauthorized power of unelected federal workers in the first case is going in the right direction.

The Supreme Court ruled in the WV v. EPA case that a federal agency went beyond the scope of the law that it was supposed to implement, and THAT is the main point of the ruling. In particular, from the Supreme Court:

“But the only interpretive question before us, and the only one we answer, is more narrow: whether the “best system of emission reduction” identified by EPA in the Clean Power Plan was within the authority granted to the Agency in Section 111(d) of the Clean Air Act. For the reasons given, the answer is no. Capping carbon dioxide emissions at a level that will force a nationwide transition away from the use of coal to generate electricity may be a sensible “solution to the crisis of the day.” *New York v. United States*, 505 U. S. 144, 187 (1992). But it is not plausible that Congress gave EPA the authority to adopt on its own such a regulatory scheme in Section 111(d). A decision of such magnitude and consequence rests with Congress itself, or an agency acting pursuant to a clear delegation from that representative body. The judgment of the Court of Appeals for the District of Columbia Circuit is reversed, and the cases are remanded for further proceedings consistent with this opinion.

Many people have apparently forgotten the basic structure of our government. Someone must remind people that CONGRESS has both the authority and the OBLIGATION to make the laws through representatives of "The People," then it is the obligation of the Executive Branch to implement those laws, while the Supreme Court then determines whether or not all of that has been done legitimately within the context of the basic structures of The Constitution. Blaming the Supreme Court now for current controversies is overlooking what is really going on.

Energy and climate change are involved in the WV v. EPA case but are not directly related to the legal issues involved that need to be addressed for a long-term, stable government. Besides the Executive Branch directing its federal workers for its own intents, a major problem is that CONGRESS is not doing its job - and has not done its job for a long time! Congress has been passing laws that are not clear enough in many ways, and then federal workers have taken over the obligations of Congress. The current process being used is an abuse of the system where a general law is passed and then unelected federal workers themselves "interpret" the law and actually make the regulations. For a long time over a number of years over different federal administrations from both parties, the combination of Congress failing to make explicit laws and then the Executive Branch further abusing the system for its own purposes by directing a certain approach by its federal workers has occurred - without the subsequent, sufficient oversight by Congress.

The real problems are based on the legal issues of the relationship between Congress and the federal workers in the Executive Branch. The Supreme Court should have addressed these fundamental problems long ago. This lack of conscientiousness by Congress and the abuse by the Executive Branch over a long period of time has finally resulted in the Supreme Court having to try to rectify the situation.

Yes, we need federal employees to implement the details of the laws, but I believe Congress should do a much better job in telling them exactly what to do and holding the workers – and the administration - accountable. I am disappointed and concerned that a purer government being attainable is now conflated in the minds of the people with other important issues of the day. The pros and cons of specific issues need to be seriously debated and acted upon by Congress – and not either left to the unsupervised or to the sole desires of the Executive Branch. Allowing this to happen distracts and confuses the people of the way our system is supposed to work. (Don't students take a Civics course anymore? I had a mandatory course for an entire year.)

We can still accomplish whatever goals the country wants in a legally legitimate way - and not have the Supreme Court get involved to the extent they have - if Congress and the Executive Branch would do THEIR jobs. Any of YOUR important issues CAN BE addressed through the basic process of our government as established through The Constitution - without having to resort to methods outside the basic structure of our legal system. It is not the fault of the current Supreme Court if your favorite issues are not being unilaterally supported by the current Supreme Court at the federal level while it tries to straighten out the abuses

going on in the processes. Let's clamp down on all of our government officials to do what the Constitution requires of them, elected, appointed, or hired - for the benefit of all of us.

Likewise, in the past, the Supreme Court has also gone beyond its appropriate authority in either "making law," twisting a law, or misinterpreting the intent of The Constitution. For example, the Supreme Court in the Dobbs case by overturning the Roe v. Wade decision by an earlier Supreme Court is an example of an earlier Supreme Court going out of its bounds - since the Congress had not passed an appropriate law dealing with that specific issue. People talking now about "codifying" federal laws about abortion exactly confirms what should have been done in the first place, one way or the other – rather than abortion proponents depending upon a suspect, tangential interpretation of The Constitution for that result. The way it stands now is that each state does have the legal authority to pass its own laws about abortion. I have my own views on abortion, and so do you, but regardless of what our individual views are on that particular issue, let's at least go through the proper legal channels to achieve whatever the country thinks appropriate, e.g., pass a federal law or leave it to the states as the Constitution now requires. (For example, Congress could pass a federal law defining the legal status of the embryo, one way or the other, especially relative to the mother – which, of course, would create further controversy and legal questions – but in the proper forums.) In particular, in the recent Dobbs v. Jackson Women's Health Organization case the Supreme Court said that the 1973 Roe v. Wade decision "must be overruled" because it was "an abuse of judicial authority." The Supreme Court decided that

"It is time to heed the Constitution and return the issue of abortion to the people's elected representatives. "The permissibility of abortion, and the limitations, upon it, are to be resolved like most important questions in our democracy: by citizens trying to persuade one another and then voting." "That is what the Constitution and the rule of law demand."

It appears to me that many people on both sides of any particular issue think that their particular point of view is so much more important than anything else and that the principle of "The ends justify the means" justifies any method to achieve their own goals. I believe this attitude has been shown historically to be very short-sighted, as well as inherently destructive and divisive to a civilized society. So, wanting the Supreme Court to rule in favor one way or the other on some issue regardless of the law and due process is ignoring the function of the Supreme Court and erodes our entire system of government.