

***Loper Bright Enterprises v. Raimondo*, No. 22-451; *Relentless, Inc. v. Department of Commerce*, No. 22-1219**

Today, the Supreme Court issued a 6-3 decision overruling *Chevron*, the decision holding that federal courts should defer to an administrative agency's reasonable interpretation of an ambiguous statute that the agency administers. Going forward, courts are required to exercise their independent judgment in deciding if an agency has acted within its statutory authority.

Background: Forty years ago, the Supreme Court decided *Chevron v. Natural Resources Defense Council*, 487 U.S. 837 (1984), which held that courts should give deference to an administrative agency's interpretation of a statute it administers. In *Chevron*, the Court set out a two-step framework, where courts ask first if the statute is ambiguous, and then, if the statute is ambiguous, courts defer to the agency's interpretation so long as it is "permissible."

The statute at issue in these cases involves rules for commercial fishing companies in the Atlantic Ocean. The district courts and courts of appeals applied the *Chevron* framework and deferred to the National Marine Fisheries Service's interpretation of the statute.

Issue: Whether the Court should overrule *Chevron*.

Court's Holding: In an opinion authored by Chief Justice Roberts and joined by Justices Thomas, Alito, Gorsuch, Kavanaugh, and Barrett, the Supreme Court overruled *Chevron*. The Court held that going forward, federal courts must exercise independent judgment in deciding whether an agency has acted within its statutory authority.

The Court explained that Article III of the Constitution makes federal courts responsible for adjudicating disputes between parties, including by providing final interpretations of federal statutes. The Court's analysis went all the way back to *Marbury v. Madison*, 1 Cranch 137 (1803), and the principle that "[i]t is emphatically the province and duty of the judicial department to say what the law is." Historically, the Court explained, courts sometimes would give weight to the views of executive branch agencies, but they were not bound to follow them. The Court also relied on the Administrative Procedure Act (APA), the statute that prescribes rules for agency actions and judicial review of those actions. The APA's judicial review provision, the Court explained, requires a reviewing court to "decide all relevant questions of law" and to "interpret constitutional and statutory provisions," and then to "hold unlawful and set aside agency action, findings, and conclusions found to be . . . not in accordance with law," 5 U.S.C. § 706 – and that language does not contemplate any deference. The APA, the Court concluded, "codifies for agency cases the unremarkable, yet elemental proposition reflected by judicial practice dating back to *Marbury*: that courts decide legal questions by applying their own judgment."

The Court concluded that "*Chevron's* presumption is misguided because agencies have no special competence in resolving statutory ambiguities. Courts do." Going forward, the Court explained, the federal courts must play a more active role in reviewing statutes.

"[I]nstead of declaring [an agency's] reading 'permissible,'" they should "use every tool at their disposal to determine the best reading of the statute and resolve the ambiguity."

Justice Thomas and Justice Gorsuch authored concurring opinions.

Justice Kagan authored a lengthy dissenting opinion, which was joined by Justices Sotomayor and Jackson. The dissenting Justices explained that *Chevron* "has formed the backdrop against which Congress, courts, and agencies—as well as regulated parties and the public—all have operated for decades. It has been applied in thousands of judicial decisions. It has become part of the warp and woof of modern government, supporting regulatory efforts of all kinds—to name a few, keeping air and water clean, food and drugs safe, and financial markets honest." And, in their view, the *Chevron* rule is "right," because "Congress knows that it does not—in fact cannot—write perfectly complete regulatory statutes. It knows that those statutes will inevitably contain ambiguities that some other actor will have to resolve, and gaps that some other actor will have to fill. And it would usually prefer that actor to be the responsible agency, not a court."

Going Forward: On the one hand, the Supreme Court's decision to overrule *Chevron* may seem like business as usual, since (as the opinion says), the Court itself has not afforded any agency *Chevron* deference since 2016. But on the other hand, the federal courts of appeals and district courts have regularly applied *Chevron* to defer to agency interpretations – as the courts of appeals did in this case. That is no longer allowed after this decision.

More generally, there is great potential for upheaval in areas of the law where regulated parties have long relied on settled agency interpretations of the governing statutes. In the Supreme Court's view, no deference is due, even if the issue requires significant technical expertise: "[E]ven when an ambiguity happens to implicate a technical matter, it does not follow that Congress has taken the power to authoritatively interpret the statute from the courts and given it to the agency. Congress expects courts to handle technical statutory questions."

That said, the Court noted that courts still may consider agency interpretations of the statutes they administer. Courts may find those interpretations persuasive—especially when they are based on "factual premises" within the agency's expertise.

The Court also recognized that sometimes Congress expressly delegates certain authority to an administrative agency, and it explained that courts should respect that delegation so long as Congress's intent is sufficiently clear. As the Court explained, "When the best reading of a statute is that it delegates discretionary authority to an agency, the role of the reviewing court under the APA is, as always, to independently interpret the statute and effectuate the will of Congress subject to constitutional limits." The problem with *Chevron*, the Court explained, is that it presumed that any statutory ambiguity is an implicit delegation of Congress's authority to an administrative agency. And with respect to express delegations, the Court suggested that Congress must do more than simply delegate general rulemaking authority; the Court gave the examples of laws that delegate "the authority to give meaning to a particular statutory term" and laws that expressly confer "discretion" upon the agency with respect to a particular determination.

Finally, the Court noted that its decision does not call into question its prior cases that relied on *Chevron*, which remain binding precedent. Those decisions, the Court stated, "are still subject to statutory *stare decisis* despite our change in interpretive methodology." However, it is likely that future challenges to agency actions will ask lower courts to reconsider their past interpretations of federal statutes that relied on the *Chevron* framework.

Mayer Brown filed an amicus brief in support of the petitioners.

Read the opinion [here](#).