



Federal Judge Strikes Down CDC Mask Mandate for Planes, Travel

US Jack Phillips | Apr 18, 2022

The Centers for Disease Control and Prevention's (CDC's) [mask mandate](#) for airplanes and other forms of public transportation was struck down on April 18 by a federal [judge](#).

U.S. District Judge Kathryn Kimball Mizelle said the CDC rule exceeded the agency's statutory authority because its implementation violated administrative law. Mizelle, a Trump appointee based in Florida, directed the agency to reverse the policy nationwide in response to a lawsuit filed by the Health Freedom Defense Fund.


The CDC violated the Administrative Procedure Act because it didn't give notice before imposing the mandate in February 2021, Mizelle wrote in [a 59-page summary judgment](#).

"At the time when the CDC issued the mandate, the COVID-19 pandemic had been ongoing for almost a year and COVID-19 cases were decreasing," she wrote. "This timing undercuts the CDC's suggestion that its action was so urgent that a thirty-day comment period was contrary to the public interest. So too, the CDC's delay in issuing the mandate further undercuts its position."

Public comment, in this case, is necessary, the judge wrote, because the mandate would "constrain their choices and actions via threats and civil and criminal penalties"

criminal penalties.

Mizelle also found that the mandate, which was imposed in February 2021, exceeded the CDC's statutory authority.



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The agency had claimed that the Public Health Services Act of 1944 gave it the power to regulate travelers, but the judge disagreed, finding that the law only grants the agency the ability “to directly regulate individuals only if they are traveling into the United States from abroad or are ‘reasonably believed to be infected with a communicable disease in a qualifying stage.’”

The CDC and the White House didn't respond to requests for comment.

It's not clear if the Department of Justice will try to file an appeal or how quickly the ruling will be implemented across the United States, namely at airports. Several weeks ago, the CDC [announced that it would extend the mask mandate](#) until at least May 3, despite calls from airline companies and groups to end the policy.

The judge's decision is yet another blow to the Biden administration's COVID-19 mandates. Earlier this year, the Supreme Court struck down an Occupational Safety and Health Administration rule directing tens of millions of workers at larger private companies to receive vaccines, but left intact a Centers for Medicare & Medicaid Services rule requiring health care workers to receive a COVID-19 vaccine.

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Other CDC orders issued during the COVID-19 pandemic have also been struck down by judges, including an eviction moratorium and an order pertaining to cruises.

“Before COVID, the CDC had really played more of a background role, a sort of advise and consent role to the state public health authorities. It had never before sort of come to the forefront of a public health situation and said we’re going to dictate, directly dictate how people can conduct themselves and how people can use their property. And that was really unprecedented,” Brant Hadaway, an attorney for the plaintiffs in the mask mandate case, told The Epoch Times.

“And so the pattern is really that when a federal agency, which is part of the executive branch of government, suddenly starts claiming newfound powers in a statute that has existed for decades, the courts are going to take a close look at that. And that’s what the courts have been doing.”

Steve Vladeck, a law professor at the University of Texas, was among those disagreeing with the latest ruling, writing on Twitter that airports and travel hubs should be at the core of the CDC’s legal authority in trying to reduce the spread of the virus that causes COVID-19.

“This is both a big deal and a truly preposterous (nationwide) injunction,” Vladeck wrote. “The CDC’s statutory authority is specifically directed at preventing the spread of communicable diseases across state lines. Where else is such spread more likely to occur than transport hubs like airports?”

Starting earlier this year, a number of Democrat-led municipalities and states joined many of their Republican counterparts in rescinding mask and vaccine passport mandates as COVID-19 cases significantly dropped across the United States. However, Philadelphia has reinstated a general mask mandate in recent days, drawing a lawsuit from local business owners.

Earlier this month, several major airline CEOs pleaded with the Biden administration to drop the CDC’s mask order.

“We are encouraged by the current data and the lifting of COVID-19 restrictions from coast to coast, which indicate it is past time to eliminate COVID-era transportation policies,” a group of CEOs wrote in a letter to the White House.

American Airlines, United Airlines Holdings, Delta Air Lines, and Southwest Airlines were among those who signed the document.

They stated that “much has changed since these measures were imposed and they no longer make sense in the current public health context,” before making note of a “persistent and steady decline of hospitalization and death rates.”

From [The Epoch Times](#)