

**Case Summary: *Department of State v. AIDS Vaccine Advocacy Coalition*,
No. 24A269 (U.S. Sept. 26, 2025)**

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*(All views expressed in this article are those of the author and do not necessarily
represent the position of the Clemson Law Review or its leadership.)*

On January 20, 2025, President Trump issued Executive Order No. 14169, titled “Reevaluating and Realigning United States Foreign Aid,” ordering a 90-day pause on all U.S. foreign development assistance programs and foreign aid funding pending a full review.¹ On February 10, AIDS Vaccine Advocacy Coalition (AVAC), an organization that receives grant money from the U.S. Department of State and the U.S. Agency for International Development (USAID), was joined by Journalism Development Network, Inc. in filing a lawsuit against the U.S. Department of State and other related federal agencies. Suing under the Administrative Procedure Act (APA), AVAC and other organizations filing similar suits requested “that the District Court compel the obligation and expenditure of the funds Congress had appropriated.”²

On February 13, the U.S. District Court for the District of Columbia issued a Temporary Restraining Order (TRO) against the Government, which was later

¹ Exec. Order No. 14169, 90 C.F.R. 8619 (2025).

² *Department of State v. AIDS Vaccine Advocacy Coalition*, No. 24A269, slip op. at 4 (Kagan, J., dissenting) (U.S. Sept. 26, 2025).

followed by a ruling ordering the Government to pay all invoices submitted before February 13 by 11:59 pm on February 26.³ On February 26, the Government filed an application to vacate the order with the U.S. Supreme Court and was granted an administrative stay by Chief Justice Roberts. However, their application to vacate was subsequently denied, and the case was remanded to the District Court.⁴

The most recent development in this case arose following a “special message” sent by President Trump on August 28, pursuant to the Impoundment Control Act (ICA), proposing the rescission of \$4 billion of appropriated foreign-aid funds.⁵ Enacted in response to President Nixon’s impoundment efforts, the ICA provides a formal process for the President to request the rescission of funds, including a 45-day period in which the President can temporarily withhold funds while Congress considers the proposal. If, at the end of 45 days, Congress does not approve the rescission, the funds must be released. However, under a controversial strategy known as a pocket recission, a President can request the rescission of funds set to expire within the 45 days, causing them to expire regardless of congressional action. President Trump employed this method by submitting the rescission request shortly before the September 30 expiration of the appropriated funds.

On September 3, the District Court directed the President to obligate \$10.5 billion of appropriated aid funds set to expire on September 30, which included the

³ *Department of State v. AIDS Vaccine Advocacy Coalition*, No. 24A831, slip op. at 1 (U.S. Mar. 5, 2025).

⁴ *Id.* at 1.

⁵ *Department of State v. AIDS Vaccine Advocacy Coalition*, No. 24A269, slip op. at 1 (U.S. Sept. 26, 2025).

\$4 billion proposed for rescission.⁶ In response, the Government asked that the District Court issue a stay of its ruling, and, after that request was denied, filed an appeal with the United States Court of Appeals for the District of Columbia Circuit, which was also denied. The Government then filed an application with the Supreme Court to stay the District Court’s preliminary injunction, arguing that the ICA “[precluded] the organizations from bringing this APA suit to enforce appropriations laws.”⁷ The Court granted the Government’s application for an emergency stay.

In an unsigned order, the Court held that, at this stage, the Government had demonstrated that the ICA barred respondents from bringing an appropriations suit under the APA.⁸ This view is consistent with a previous D.C. Circuit Court ruling,⁹ which held that the plaintiffs could not challenge a violation of the ICA because it does not provide a remedy for private litigants; rather, only the Comptroller General may sue for violations. Additionally, the Supreme Court held that the Government had “made a sufficient showing that mandamus relief [was] unavailable to respondents” and that “the asserted harms to the Executive’s conduct of foreign affairs [appeared] to outweigh the potential harms faced by respondents.”¹⁰ However, despite granting the stay, the Court noted that the order “should not be read as a

⁶ *Id.* at 1 (“On September 3, the United States District Court for the District of Columbia entered a preliminary injunction directing the Executive to obligate roughly \$10.5 billion of appropriated aid funding set to expire on September 30.”).

⁷ *Id.* at 4 (Kagan, J., dissenting).

⁸ *Id.* at 1 (“The Government, at this early stage, has made a sufficient showing that the Impoundment Control Act precludes respondents’ suit, brought pursuant to the Administrative Procedure Act, to enforce the appropriations at issue here.”).

⁹ *Global Health Council v. Donald J. Trump*, No. 25-5097 (D.C. Cir. Aug. 13, 2025).

¹⁰ *Department of State v. AIDS Vaccine Advocacy Coalition*, No. 24A269, slip op. at 1 (U.S. Sept. 26, 2025).

final determination on the merits” but instead merely reflected the Supreme Court’s “preliminary view, consistent with the standards for interim relief.”¹¹

A dissenting opinion was filed by Justice Kagan, joined by Justice Sotomayor and Justice Jackson. Justice Kagan argued that the Government had not met the “standard for emergency relief” created in *Nken v. Holder*, 556 U.S. 418 (2009) because it had failed to provide strong evidence that it was likely to succeed on the merits, nor had it shown that it would suffer irreparable harm in the absence of relief.¹² She therefore determined that the Court should have denied the application and allowed the lower courts to consider the issue fully.

Justice Kagan further argued that although the ICA gives the Comptroller General the ability to sue the Executive regarding presidential impoundments, it does not preclude private parties from bringing an APA suit for similar purposes.¹³ As evidence for this claim, she cited a section of the ICA titled “Disclaimer,” in which it declares that “Nothing Contained in this Act . . . shall be construed” as “affecting in any way the claims or defenses of any party to litigation concerning any impoundment.”¹⁴ Justice Kagan acknowledged that the Government could and has argued that the provision contains an “unspoken limit,” restricting its application “only to litigation pending at the time the ICA was enacted.”¹⁵ However, she challenged this argument, stating that Congress did not include the words “currently

¹¹ *Id.* at 1.

¹² *Id.* at 3 (Kagan, J., dissenting) (citing *Nken v. Holder*, 556 U.S. 418, 426-427 (2009)).

¹³ *Id.* at 5.

¹⁴ *Id.* at 5 (citing Impoundment Control Act of 1974 (ICA), § 681(3)).

¹⁵ *Department of State v. AIDS Vaccine Advocacy Coalition*, No. 24A269, slip op. at 6 (Kagan, J., dissenting) (U.S. Sept. 26, 2025).

pending” or express a similar idea in any other way.¹⁶ Moreover, Justice Kagan laid out the historical context of the ICA to offer an additional explanation as to why Congress did not intend the ICA to preclude private plaintiff suits.¹⁷

In response to the Government’s argument that complying with the District Court’s order would force the Government to advocate views contrary to U.S. foreign policy, Justice Kagan stated that this is the “price of living under the Constitution that gives Congress the power to make spending decisions through the enactment of appropriations laws.”¹⁸ She concluded her dissent by reiterating the stringent standards that need to be met for granting emergency relief and her belief that the “Executive has not shown what it must to receive emergency relief from this court.”¹⁹

The result of this case will be felt not only by AVAC but also by every organization affected by the Presidential impoundment of congressionally appropriated funds. By issuing this emergency stay, the Court allowed \$4 billion in appropriated foreign aid funds to expire and narrowed the ability of private organizations affected by impoundment to seek relief through the judicial system. Additionally, the Court’s decision has strengthened the Executive’s purported authority to delay or withhold appropriate funds, thereby increasing executive power over appropriations. Furthermore, the ruling validated the Trump Administration’s use of the pocket rescission. Although the majority noted that this is not a final ruling,

¹⁶ *Id.* at 6.

¹⁷ *Id.* at 7 (“The ICA emerged against the backdrop of President Nixon’s large-scale efforts to impound appropriated funds, and thus to substitute his own policy priorities for Congress’s.”).

¹⁸ *Id.* at 8.

¹⁹ *Id.* at 8.

this case remains significant because it raises concerns about the balance of power between the President and Congress.