

United States Court of Appeals
for the Fifth Circuit

United States Courts
Southern District of Texas
FILED

October 24, 2023

Nathan Ochsner, Clerk of Court

No. 22-40802

United States Court of Appeals
Fifth Circuit

FILED

September 1, 2023

Lyle W. Cayce
Clerk

ROBERT L. APTER, MARY TALLEY BOWDEN, and PAUL E.
MARIK,

Plaintiffs—Appellants,

versus

DEPARTMENT OF HEALTH & HUMAN SERVICES; XAVIER
BECERRA, *in his official capacity as Secretary of Health and Human Services*;
FOOD & DRUG ADMINISTRATION; ROBERT M. CALIFF, *in his*
official capacity as Commissioner of Food and Drugs,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 3:22-CV-184

Before CLEMENT, ELROD, and WILLETT, *Circuit Judges.*

J U D G M E N T

This cause was considered on the record on appeal and was argued by
counsel.

IT IS ORDERED and ADJUDGED that the judgment of the
District Court is REVERSED, and the cause is REMANDED to the

District Court for further proceedings in accordance with the opinion of this Court.

IT IS FURTHER ORDERED that each party bear its own costs on appeal.



Certified as a true copy and issued
as the mandate on Oct 24, 2023

Attest:

Jyle W. Canice
Clerk, U.S. Court of Appeals, Fifth Circuit

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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October 24, 2023

Mr. Nathan Ochsner
Southern District of Texas, Galveston
United States District Court
601 Rosenberg Street
Room 411
Galveston, TX 77550-0000

No. 22-40802 Apter v. Dept of Health & Human Svc
USDC No. 3:22-CV-184

Dear Mr. Ochsner,

Enclosed is a copy of the judgment issued as the mandate and a copy of the court's opinion.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Nancy F. Dolly, Deputy Clerk
504-310-7683

cc: Mr. David Anthony Dalia
Mr. Alan Dumoff
Mrs. Ashley Cheung Honold
Mr. Jared Kelson
Mr. R. Trent McCotter
Mr. Oliver McDonald
Mr. Andrew Layton Schlafly
Mr. Daniel Bentele Hahs Tenny