

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 23, 2023

Lyle W. Cayce
Clerk

No. 22-40043

FEDS FOR MEDICAL FREEDOM; LOCAL 918, AMERICAN
FEDERATION OF GOVERNMENT EMPLOYEES; HIGHLAND
ENGINEERING, INCORPORATED; RAYMOND A. BEEBE, JR.; JOHN
ARMBRUST; ET AL.,

Plaintiffs—Appellees,

versus

JOSEPH R. BIDEN, JR., *in his official capacity as President of the United
States*; THE UNITED STATES OF AMERICA; PETE BUTTIGIEG, *in
his official capacity as Secretary of Transportation*; DEPARTMENT OF
TRANSPORTATION; JANET YELLEN, *in her official capacity as Secretary
of Treasury*; ET AL.,

Defendants—Appellants.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 3:21-CV-356

Before RICHMAN, *Chief Judge*, and JONES, SMITH, BARKSDALE,
STEWART, DENNIS, ELROD, SOUTHWICK, HAYNES, GRAVES,
HIGGINSON, WILLETT, HO, DUNCAN, ENGELHARDT, OLDHAM,

No. 22-40043

and WILSON, *Circuit Judges*.*

JUDGMENT ON REHEARING EN BANC

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 AFFIRMED.

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

ANDREW S. OLDHAM, *Circuit Judge*, joined by JONES, SMITH, BARKSDALE, ELROD, WILLETT, HO, DUNCAN, ENGELHARDT, and WILSON, *Circuit Judges*.

JAMES C. HO, *Circuit Judge*, joined by JONES, *Circuit Judge*, concurring.

HAYNES, *Circuit Judge*, concurring in the judgment in part and dissenting in part.

STEPHEN A. HIGGINSON, *Circuit Judge*, joined by SOUTHWICK, *Circuit Judge*, concurring in part and dissenting in part.

CARL E. STEWART, *Circuit Judge*, joined by RICHMAN, *Chief Judge*, and DENNIS and GRAVES, *Circuit Judges*, dissenting.

* JUDGE DOUGLAS was not a member of the court when this case was submitted to the court en banc and did not participate in this decision.

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