



NCLA Wins Stay Pending Appeal from Fifth Circuit in Post-Lucia SEC Case

Michelle Cochran v. Securities and Exchange Commission, et al.

Washington, D.C.- It took barely a couple of hours after oral argument on the motion in New Orleans, for a panel of the U.S. Court of Appeals for the Fifth Circuit to issue an **order** staying the SEC's enforcement proceedings against NCLA client Michelle Cochran. The order in *Cochran v. Securities and Exchange Commission* stays the SEC's in-house administrative hearing against her until the Fifth Circuit resolves the merits of the appeal now pending before them in Ms. Cochran's case.

The order from JJ. Edith Jones, Stephen Higginson, and Andrew Oldham reads: "IT IS ORDERED that Appellant's motion for an injunction pending appeal under Federal Rule of Appellate Procedure 8 is GRANTED."

The issue due up for appeal on the merits to the Fifth Circuit is whether the SEC may force Ms. Cochran to proceed in front of an SEC administrative law judge (ALJ) who enjoys multiple layers of unconstitutional protection from removal. NCLA and Michelle Cochran are delighted with the decision of the Fifth Circuit panel to stay her constitutionally defective administrative proceeding. Both are also pleased that the court appears willing to consider correcting a path appellate law in other circuits has taken that has been permitting the SEC to impose hearings on defendants that are predestined to be vacated.

The Fifth Circuit's stay recognizes the enormous human cost and prejudicial delay that senseless, serial prosecutions impose on Americans like Ms. Cochran. Cochran's case was one of dozens slated for reconsideration after the U.S. Supreme Court's ruling last June in *Lucia v. SEC*—which determined the SEC had been using unconstitutionally appointed ALJs. NCLA also represents Mr. Lucia in his post-Supreme Court litigation.

Further details about Michelle's case are available [here](#).

NCLA released the following statements:

"I am so proud to be represented by NCLA!! Thank you so much for all you are doing for me and for all of the others like me out there!!"—**Michelle Cochran, NCLA Client**

"NCLA looks forward to a robust challenge to the SEC's power to deny Americans a hearing before a constitutional tribunal."—**Peggy Little, NCLA Senior Litigation Counsel**

"The SEC brazenly violated Michelle Cochran's civil rights, and the injunction stopping the SEC proceedings against her is an important first step in holding the SEC to account."—**Philip Hamburger, NCLA President**

“This victory ensures that Michelle will get a decision from a real judge before she has to endure any further SEC hearings. It should also awaken other courts to the rights at stake here—and the need to protect such rights before administrative hearings ever proceed.”—**Mark Chenoweth, NCLA General Counsel**

“The court’s ruling will have consequences across the country. The court rebuked the SEC’s attempt to keep federal courts from even questioning what happens at in-house administrative proceedings.”
—**Caleb Kruckenberg, NCLA Litigation Counsel**

ABOUT NCLA

NCLA is a nonprofit civil rights organization founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the administrative state. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unchecked power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights. For more information visit us online: NCLAlegal.org.

Media Inquiries:

Please contact Judy Pino
202-869-5218
Judy.pino@ncla.legal