



**FOR IMMEDIATE RELEASE**

**Media Inquiries:** [Ruslan Moldovanov](mailto:ruslan.moldovanov@ncla.org), 202-869-5237

**In NCLA *Amicus* Win, Supreme Court Restores Americans' Rights to Trial by Jury**

*Securities and Exchange Commission v. George R. Jarkesy, Jr. and Patriot28, L.L.C.*

**Washington, DC (June 27, 2024)** – Today, the U.S. Supreme Court struck a blow for freedom and restored the precious right to a trial by jury for Americans confronting the Administrative State. The Court affirmed the U.S. Court of Appeals for the Fifth Circuit's decision in *SEC v. Jarkesy*, overturning the Securities and Exchange Commission's unconstitutional administrative prosecution regime. SEC targeted investment professional and syndicated talk-radio host George R. Jarkesy, Jr. in a years-long administrative proceeding adjudicated by an Administrative Law Judge (ALJ) without a jury. Agreeing with the New Civil Liberties Alliance's *amicus curiae* [brief](#) in the case, Supreme Court [ruled](#) 6-3 that SEC violated Mr. Jarkesy's Seventh Amendment right to a jury trial. NCLA celebrates this historic victory over SEC's abuse of power, vindicating Americans' civil liberties.

NCLA has supported Mr. Jarkesy's cause and collaborated with his counsel for many years. They deserve the credit for this magnificent outcome. NCLA is gratified that the Supreme Court followed our lead, holding that the Seventh Amendment right to a jury trial applies to administrative proceedings. This decision revives one of the most important liberty protections in the Bill of Rights. Its logic applies to all federal agency proceedings, not just those at the SEC. All litigants should insist on their jury-trial rights in these tribunals from now on, especially whenever an agency seeks financial penalties. Because ALJ proceedings lack juries, the Supreme Court's decision may require SEC to pursue many enforcement cases only in federal district court, where constitutional due process and jury trial protections can be assured. The Court held that, other than cases in admiralty and equity, jury trials are required. It appears to have narrowed the 'public rights' doctrine considerably, which has been too widely used to deny jury-trial rights in the past.

"A defendant facing a fraud suit has the right to be tried by a jury of his peers before a neutral adjudicator. Rather than recognize that right, the dissent would permit Congress to concentrate the roles of prosecutor, judge, and jury in the hands of the Executive Branch," said Chief Justice Roberts. "That is the very opposite of the separation of powers that the Constitution demands. Jarkesy and Patriot28 are entitled to a jury trial in an Article III court."

NCLA's *amicus* brief also pointed out that SEC's ALJs have enjoyed multiple layers of protection from removal by the President. The Supreme Court did not reach that issue in its opinion, which has now appeared in front of the justices in various forms in the *Lucia*, *Gibson*, *Cochran*, and *Jarkesy* cases. Surely the Court will weigh in on that problem soon. But make no mistake, today's decision is a massive victory for freedom.

**NCLA released the following statements:**

"This is a day to rejoice! The Supreme Court's restoration of Americans' constitutional guarantee of a right to be tried by a jury of their peers marks a historic declaration of independence from decades of encroachments by the Administrative State. The Dodd-Frank Act's attempt to extinguish Americans' jury-trial protections by sweeping

securities prosecutions into the SEC’s notoriously biased in-house courts—where agencies prevail 90-100% of the time—has come to a well-deserved end.”

— **Peggy Little, Senior Litigation Counsel, NCLA**

“Congratulations to George Jarkesy and his courageous counsel! Others told them that a Seventh Amendment argument stood no chance, but Mike McColloch and Karen Cook refused to listen. Their perseverance has won a mighty victory against injustice by persuading the Supreme Court to restore jury trial rights to all Americans. What’s more, this landmark decision does not just apply to adjudications at the SEC, it also applies to every other federal agency that engages in similar kinds of unconstitutional administrative adjudication.”

— **Mark Chenoweth, President, NCLA**

**For more information visit the *amicus* page [here](#).**

## **ABOUT NCLA**

[NCLA](#) is a nonpartisan, nonprofit civil rights group 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 unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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