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Going *Chevron*'s Way?: NCLA Asks SCOTUS to End Unlawful *Stinson* Deference in Criminal Sentences

Raymond Poore v. United States

Washington, DC (September 29, 2025) – The New Civil Liberties Alliance has filed an *amicus curiae* brief urging the Supreme Court to hear *Raymond Poore v. United States*, a case challenging the unconstitutional deference doctrine established over 30 years ago in *Stinson v. United States*. Under that precedent, courts must defer to the U.S. Sentencing Commission's commentary to the U.S. Sentencing Guidelines in determining a criminal defendant's sentence. Unlike changing the Guidelines, which requires going through notice and comment and review by Congress, the Sentencing Commission creates and updates the commentary by itself. By mandating deference to the commentary—even when it expands or alters the Guidelines—the *Stinson* precedent results in harsher sentences while evading notice and comment and Congressional review.

Following *Stinson*, the U.S. Court of Appeals for the Seventh Circuit upheld Mr. Poore's increased sentence, deferring to the Sentencing Commission's commentary despite the unambiguous plain text of the Guidelines. According to the commentary, but not the Guidelines, Mr. Poore's non-violent offense warranted a sentence enhancement, which the court applied—thereby *doubling* his sentence. After overturning *Chevron* deference last year in *Relentless Inc. v. Dept. of Commerce*, NCLA now asks the Supreme Court to do away with *Stinson* deference as well. The Justices should make clear that judges owe no deference to Sentencing Commission commentary that rewrites the Guidelines, at least when it leads to more years behind bars.

When judges employ *Stinson* deference, they effectively let the Commission increase penalties outside the scheme Congress devised. This arrangement violates the rule of lenity, under which courts interpret ambiguous criminal laws in defendants' favor. It also deprives defendants of due process of law by biasing courts against them, and it prevents courts from fully exercising the judicial independence enshrined in Article III of the Constitution. These were some of the same problems that NCLA raised in overturning *Chevron* deference at the U.S. Supreme Court last year in *Loper Bright/Relentless*.

In 2019, the Supreme Court held in *Kisor v. Wilkie* that courts may not defer to agencies' interpretations of their own rules unless they first exhaust their tools of statutory interpretation, rejecting the premise that courts may just automatically defer to an agency without exercising any independent judgment. Yet courts do not use other tools before invoking *Stinson*, which is all the more reason why such deference cannot stand.

NCLA released the following statements:

"No one should serve extra years behind bars because an agency of unelected bureaucrats decided to 'interpret' the rules more harshly. *Chevron* is gone. *Kisor* is gutted. There is no reason for the Supreme Court to allow this deference doctrine to continue stumbling along, wreaking havoc on individuals' lives and liberty."
— Casey Norman, Litigation Counsel, NCLA

"Inexplicably, the Supreme Court has passed up multiple prior opportunities to grant certiorari to review *Stinson* deference. For this reason, the problem still cries out for resolution, and the Court should grant cert in *Poore*."
— 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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