

# Congressional Court Watcher: Circuit Splits from December 2025

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The U.S. Courts of Appeals for the thirteen “circuits” issue thousands of precedential decisions each year. Because relatively few of these decisions are ultimately reviewed by the Supreme Court, the U.S. Courts of Appeals are often the [last word](#) on consequential legal questions. The federal appellate courts sometimes reach different conclusions on the same issue of federal law, causing a “split” among the circuits that leads to the nonuniform application of federal law among similarly situated litigants.

This Legal Sidebar discusses circuit splits that emerged or widened following decisions from December 2025 on matters relevant to Congress. The Sidebar does not address every circuit split that developed or widened during this period. Selected cases typically involve judicial disagreement over the interpretation or validity of federal statutes and regulations, or constitutional issues relevant to Congress’s lawmaking and oversight functions. The Sidebar includes only cases where an appellate court’s controlling opinion recognizes a split among the circuits on a key legal issue resolved in the opinion. This Sidebar refers to each U.S. Court of Appeals by its number or descriptor (e.g., “D.C. Circuit” for “U.S. Court of Appeals for the D.C. Circuit”).

Some cases identified in this Sidebar, or the legal questions they address, are examined in other CRS general distribution products. Members of Congress and congressional staff [may click here](#) to subscribe to the *CRS Legal Update* and receive regular notifications of new products and upcoming seminars by CRS attorneys.

- **Criminal Law & Procedure:** The Eighth Circuit held that a presidential commutation of a defendant’s sentence does not deprive the court of jurisdiction to hear collateral attacks on that sentence. The defendant filed a motion for a reduction in his sentence, arguing “[extraordinary and compelling reasons](#)” warranted a reduction. While the challenge was still being litigated, President Biden commuted the defendant’s sentence to 330 months. The panel first addressed whether presidential commutation deprives an [Article III](#) court of jurisdiction to hear the case and noted a split among the circuits on this question. The [Fourth](#) Circuit has said a commutation may not be disturbed by the courts, while the [Sixth](#) Circuit has said a court may not modify the commutation itself but may correct its own errors, for example, if the sentence were unconstitutional in the first place. The [Fifth](#) and [Eleventh](#) Circuits likewise found jurisdiction after a commutation but did not address the

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separation-of-powers inquiry. The Eighth Circuit panel concluded the court retained jurisdiction to hear collateral attacks on the underlying sentence notwithstanding the commutation. The panel reasoned that the President would otherwise have the power to insulate certain sentences from judicial review, contrary to the principle that sentencing is the purview of courts (*United States v. Wright*).

- **Employee Benefits:** A divided Fifth Circuit panel affirmed a lower court's decision not to stay litigation of the plaintiffs' claims under the [Employee Retirement Income Security Act of 1974](#) (ERISA) pending arbitration. The plaintiffs alleged that the defendant, a health plan administrator, [violated its fiduciary duties](#) under ERISA in mishandling health plan claims. An agreement between the parties provided for the mandatory arbitration of claims not seeking [equitable](#) relief. Although the plaintiffs sought money damages (which are typically not equitable), the panel held that the claims were equitable because plaintiffs sought "make-whole" monetary relief from the defendant's violation of a fiduciary duty under ERISA. The panel majority acknowledged disagreement with the [Fourth](#) and [Sixth](#) Circuits, which have held that such claims under ERISA cannot be considered equitable in nature unless the plaintiff seeks the transfer of specific funds alleged to be wrongfully in the defendant's possession, which had not occurred here. The Fifth Circuit panel majority observed that the disagreeing circuits' position relied on a Supreme Court [decision](#) concerning monetary damage claims under ERISA against non-fiduciaries. The panel majority found no indication the Court intended its decision to extend to fiduciary defendants (*Aramark Servs., Inc. Grp. Health Plan v. Aetna Life Ins. Co.*).
- **Immigration:** The Sixth Circuit held that it lacked jurisdiction to review a determination made by the Board of Immigration Appeals (BIA) that a petitioner failed to establish [extraordinary circumstances](#) required to excuse an untimely asylum application. The petitioner argued that the BIA incorrectly determined that his severe depression—which caused him to miss deadlines—failed to create the statutorily necessary extraordinary circumstances to excuse his untimely filing. In holding that there was no jurisdiction to review the BIA's determination, the Sixth Circuit noted that the relevant [statute](#) grants to the Attorney General the discretion to make these determinations. Citing a prior Sixth Circuit [decision](#) that collected cases, the panel noted that most circuit courts, including the [First](#), [Third](#), [Seventh](#), [Eighth](#), [Tenth](#), and [Eleventh](#) Circuits, have concluded that the Attorney General's findings on "extraordinary circumstances" are unreviewable because of the discretion inherent in such a determination, and [statutory language](#) specifying that the asylum applicant must make a showing "to the satisfaction of the Attorney General." Only the [Ninth](#) Circuit has decided this question differently, reasoning that the statute simply answers who has the discretion to decide—the Attorney General—rather than singularly vesting discretion in the Attorney General. The panel noted this rendered the remaining statutory language surplusage, and agreed with the majority of the circuits to conclude that it lacked jurisdiction to review the denial of the petitioner's asylum application (*Osabas-Rivera v. Bondi*).
- **Labor & Employment:** In cases decided weeks apart, panels in the Third and Ninth Circuits ruled that federal courts lacked jurisdiction to enjoin ongoing National Labor Relations Board (NLRB) labor dispute proceedings where the employers contested the constitutionality of those proceedings by alleging that NLRB members and administrative law judges are unconstitutionally insulated from presidential removal. The majority of the Third Circuit panel and the full Ninth Circuit panel based their decisions on the [Norris-LaGuardia Act](#), which generally strips federal courts of jurisdiction "to issue any . . . injunction in a case involving or growing out of a labor dispute." The panels reasoned in

each case that the statute barred jurisdiction because the case grew out of an underlying labor dispute between the employer and its current or former employees, even though the employer's request for injunctive relief was directed at the NLRB for alleged structural infirmities. The panels split with the [Fifth Circuit](#), which has held that constitutional challenges to the structure of the NLRB are meaningfully distinct from employer-employee labor disputes and therefore fall outside the scope of the Norris-LaGuardia Act (Third Circuit: *Spring Creek Rehab. & Nursing Ctr. LLC v. Nat'l Lab. Rels. Bd.*; Ninth Circuit: *Amazon.com Servs., LLC v. Teamsters Amazon Nat'l Negotiating Comm.*).

## Author Information

Michael John Garcia  
Deputy Assistant Director/ALD

Hannah Solomon-Strauss  
Legislative Attorney

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