



FOR IMMEDIATE RELEASE

August 8, 2022

Media Contact: Glenn Lammi | glammi@wlf.org | 202-588-0302

WLF Urges Eleventh Circuit To Affirm Decision Invalidating Public Transportation Mask Mandate

(Health Freedom Defense Fund v. Biden)

“The Constitution does not disappear during times of emergency.”
—John Masslon, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Court of Appeals for the Eleventh Circuit to affirm a decision setting aside the Centers for Disease Control and Prevention’s order requiring masks on public transportation. WLF argues that CDC exceeded its statutory authority and that its action is arbitrary and capricious.

The case arises from CDC’s issuing an order requiring all persons on public transportation to wear face coverings. Those workers who do not wear a face mask are fired and those travelers that do not wear a face mask are either arrested or denied the right to travel. The U.S. District Court for the Middle District of Florida set aside the order. Although it did not seek a stay of that decision or expedited proceedings, the government appealed the decision.

In its *amicus* brief supporting the Health Freedom Defense Fund, WLF explains how CDC’s action exceeds its statutory authority. Like all administrative agencies, CDC has limited powers. That power does not expand when the country is facing an emergency. The U.S. Supreme Court has recently rejected this emergency-powers line of argument, most recently in a case in which WLF filed a brief late last year. The Eleventh Circuit should follow the Supreme Court’s lead and hold that, even during emergencies, the Constitution controls.

WLF’s brief also explains why CDC’s order is arbitrary and capricious. Before the COVID-19 pandemic, science showed that mask mandates do not stop the spread of respiratory illnesses like the common cold. During the COVID-19 pandemic more specific studies have found that mask mandates are ineffective at stopping the spread of COVID-19. Yet CDC persists in requiring masks to give political cover to those that reject science. The Eleventh Circuit should not allow this to stand.

Celebrating its 45th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

###