

In The
Supreme Court of the United States

Kenneth A. Pruitt,

Petitioner,

v.

Joseph Robinette Biden Jr., acting alone, or in concert, in a purported official capacity; John Forbes Kerry, acting alone or in concert, in a purported official capacity; United States (U.S.) Department of Treasury, acting alone, or in concert; U.S. Environmental Protection Agency, acting alone, or in concert; U.S. National Institute of Environmental Health Sciences; acting alone, or in concert; Michael Regan, head of EPA; Richard Woychik, head of NEIHS, and Janet Yellen, head of USDT; Heads of USDT, EPA, and NIEHS unnamed for 2021 and later due election transition, said heads named individually in his/her official capacity and when not acting in his/her official capacity but acting ultra vires, acting either alone or with unknown and unnamed other persons improperly causing violations of U.S. domestic law referenced within 2006 U.S. entry to 2003-31-OCT MERIDA UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC) and/or violate UNCAC,
Respondents.

On Petition for a Writ of Certiorari to review denial
by Court of Appeals for the Fifth Circuit
of a colorable constitutional claim

APPENDIX

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APPENDIX

Exhibit 1: June 15, CA5 three-judge panel order
denying Petitioner's emergency motion. A1

Exhibit 2: September 13, CA5 three-judge panel
order which granted motion to dismiss for lack of
jurisdiction filed by Respondent Government's
counsel and denied Petitioner's motion for a
restraining order. A2

Exhibit 3: 1997 Senate Resolution 98 (with 'yea'
votes by Biden and by Kerry) A3

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RELIEF A19

Exhibit 1

**UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT
OFFICE OF THE CLERK**

June 15, 2021

**MEMORANDUM TO COUNSEL OR PARTIES
LISTED BELOW:**

No. 21-40310

Pruitt v. Biden
USDC No. 9:21-CV-13

Enclosed is an order entered in this case.

Sincerely,

Lyle W. Cayce, Clerk

By: /s/ Christina C. Rachal, Deputy Clerk

Appeal from the United States District Court for the
Eastern District of Texas
USDC No. 9:21-CV-13

Before Stewart, Graves, and Higginson, Circuit
Judges.

Per Curiam:

IT IS ORDERED that Appellant's emergency motion
is DENIED.

Exhibit 2

FILED: September 13, 2021

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

KENNETH ALLEN PRUITT,
Plaintiff-Appellant,

versus

JOSEPH ROBINETTE BIDEN, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the
Eastern District of Texas
USDC No. 9:21-CV-13

Before Smith, Higginson, and Willett, Circuit
Judges.

Per Curiam:

IT IS ORDERED THAT Appellee's opposed motion
to dismiss the appeal for lack of jurisdiction is
GRANTED.

IT IS FURTHER ORDERED that Appellant's motion
for a restraining order is DENIED.

Exhibit 3

**1997 Senate Resolution 98 (with 'yea' votes by
Biden and by Kerry)**

<https://www.congress.gov/bill/105th-congress/senate-resolution/98/text>

IN THE SENATE OF THE UNITED STATES

July 25, 1997

Mr. Byrd (for himself, Mr. Hagel, Mr. Hollings, Mr. Craig, Mr. Inouye, Mr. Warner, Mr. Ford, Mr. Thomas, Mr. Dorgan, Mr. Helms, Mr. Levin, Mr. Roberts, Mr. Abraham, Mr. McConnell, Mr. Ashcroft, Mr. Brownback, Mr. Kempthorne, Mr. Thurmond, Mr. Burns, Mr. Conrad, Mr. Glenn, Mr. Enzi, Mr. Inhofe, Mr. Bond, Mr. Coverdell, Mr. DeWine, Mrs. Hutchison, Mr. Gorton, Mr. Hatch, Mr. Breaux, Mr. Cleland, Mr. Durbin, Mr. Hutchinson, Mr. Johnson, Ms. Landrieu, Ms. Mikulski, Mr. Nickles, Mr. Santorum, Mr. Shelby, Mr. Smith of Oregon, Mr. Bennett, Mr. Faircloth, Mr. Frist, Mr. Grassley, Mr. Allard, Mr. Murkowski, Mr. Akaka, Mr. Coats, Mr. Cochran, Mr. Domenici, Mr. Gramm, Mr. Grams, Mr. Lott, Ms. Moseley-Braun, Mr. Robb, Mr. Rockefeller, Mr. Sessions, Mr. Smith of New Hampshire, Mr. Specter, Mr. Stevens, Mr. Lugar, Mr. Reid, Mr. Bryan, Mr. Thompson, and Mr. Campbell) submitted the following resolution; which was referred to the Committee on Foreign Relations

July 21, 1997

Reported by Mr. Helms, without amendment

July 25, 1997

Considered and agreed to

RESOLUTION

Expressing the sense of the Senate regarding the conditions for the United States becoming a signatory to any international agreement on greenhouse gas emissions under the United Nations Framework Convention on Climate Change.

Whereas the United Nations Framework Convention on Climate Change (in this resolution referred to as the "Convention"), adopted in May 1992, entered into force in 1994 and is not yet fully implemented;

Whereas the Convention, intended to address climate change on a global basis, identifies the former Soviet Union and the countries of Eastern Europe and the Organization For Economic Cooperation and Development (OECD), including the United States, as "Annex I Parties", and the remaining 129 countries, including China, Mexico, India, Brazil, and South Korea, as "Developing Country Parties";

Whereas in April 1995, the Convention's "Conference of the Parties" adopted the so-called "Berlin Mandate";

Whereas the "Berlin Mandate" calls for the adoption, as soon as December 1997, in Kyoto, Japan, of a protocol or another legal instrument that strengthens commitments to limit greenhouse gas emissions by Annex I Parties for the post-2000

period and establishes a negotiation process called the "Ad Hoc Group on the Berlin Mandate";

Whereas the "Berlin Mandate" specifically exempts all Developing Country Parties from any new commitments in such negotiation process for the post-2000 period;

Whereas although the Convention, approved by the United States Senate, called on all signatory parties to adopt policies and programs aimed at limiting their greenhouse gas (GHG) emissions, in July 1996 the Undersecretary of State for Global Affairs called for the first time for "legally binding" emission limitation targets and timetables for Annex I Parties, a position reiterated by the Secretary of State in testimony before the Committee on Foreign Relations of the Senate on January 8, 1997;

Whereas greenhouse gas emissions of Developing Country Parties are rapidly increasing and are expected to surpass emissions of the United States and other OECD countries as early as 2015;

Whereas the Department of State has declared that it is critical for the Parties to the Convention to include Developing Country Parties in the next steps for global action and, therefore, has proposed that consideration of additional steps to include limitations on Developing Country Parties' greenhouse gas emissions would not begin until after a protocol or other legal instrument is adopted in Kyoto, Japan in December 1997;

Whereas the exemption for Developing Country Parties is inconsistent with the need for global action on climate change and is environmentally flawed;

Whereas the Senate strongly believes that the proposals under negotiation,

because of the **disparity of treatment between Annex I Parties and Developing Countries and the level of required emission reductions, could result in serious harm to the United States economy, including significant job loss, trade disadvantages, increased energy and consumer costs, or any combination thereof;** and

Whereas it is desirable that a bipartisan group of Senators be appointed by the Majority and Minority Leaders of the Senate for the purpose of monitoring the status of negotiations on Global Climate Change and reporting periodically to the Senate on those negotiations: Now, therefore, be it

Resolved, That it is the sense of the Senate that--

(1) the United States should not be a signatory to any protocol to, or other agreement regarding, the United Nations Framework Convention on Climate Change of 1992, at negotiations in Kyoto in December 1997, or thereafter, which would--

(A) mandate new commitments to limit or reduce greenhouse gas emissions for the Annex I Parties, unless the protocol or other agreement also mandates new specific scheduled commitments to limit or reduce

greenhouse gas emissions for Developing Country Parties within the same compliance period, or

(B) would result in serious harm to the economy of the United States; and

(2) any such protocol or other agreement which would require the advice and consent of the Senate to ratification should be accompanied by a detailed explanation of any legislation or regulatory actions that may be required to implement the protocol or other agreement and should also be accompanied by an analysis of the detailed financial costs and other impacts on the economy of the United States which would be incurred by the implementation of the protocol or other agreement.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Sponsor: Sen. Byrd, Robert C. [D-WV] (Introduced 06/12/1997)

Committees: Senate - Foreign Relations

Committee Reports: S. Rept. 105-54

Latest Action: Senate - 07/25/1997
Resolution agreed to in Senate without amendment and with a preamble by Yeas-Nays Vote. 95-0. Record Vote No: 205. (All Actions)

Roll Call Votes: There has been 1 roll call vote

Alphabetical by Senator Name (other names redacted)

Biden (D-DE), **Yea**

Kerry (D-MA), **Yea**

Exhibit 4

<https://ethics.od.nih.gov/principles-ethical-conduct-government-officers-and-employees>

Principles of Ethical Conduct for Government Officers and Employees

The following Principles of Ethical Conduct are an excerpt from Executive Order 12674 of April 12, 1989, as modified by Executive Order 12731. These Principles apply to all employees of the Federal Government.

Part I-Principles of Ethical Conduct

Section 101. *Principles of Ethical Conduct.* To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the fundamental principles of ethical service as implemented in regulations promulgated under sections 201 and 301 of this order:

1. Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.
2. **Employees shall not hold financial interests that conflict with the conscientious performance of duty.**
3. Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.
4. An employee shall not, except pursuant to such reasonable exceptions as are provided by regulation, solicit or accept any gift or other item of monetary value from any

person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

5. Employees shall put forth honest effort in the performance of their duties.
6. **Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Government.**
7. Employees shall not use public office for private gain.
8. Employees shall act impartially and not give preferential treatment to any private organization or individual.
9. **Employees shall protect and conserve Federal property** and shall not use it for other than authorized activities.
10. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
11. **Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.**
12. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those such as Federal, State, or local taxes that are imposed by law.

13. Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
14. Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this order.

The Standards of Ethical Conduct for Employees of the Executive Branch(link is external) (97 pages) are available on the Office of Government Ethics (OGE) web site.

Exhibit 5

Adjudicative Facts for which Petitioner requests
Rule 201(c)(2) Judicial Notice

Petitioner requests this Supreme Court to take judicial notice of the following United Nations, White House and State Department releases related to fact-based questions of law now before this Court:

Item 1:

<https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>

“The **Paris Agreement** is a **legally binding international treaty on climate change**. It was adopted by 196 Parties at COP 21 in Paris, on 12 December 2015 and entered into force on 4 November 2016.”

Above issued by Secretariat of the United Nations Framework Convention on Climate Change, located at Bonn, Germany, with email at secretariat@unfccc.int and web site at <http://unfccc.int>.

Item 2:

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/paris-climate-agreement/>

“I, Joseph R. **Biden Jr.**, President of the United States of America, having seen and considered the **Paris Agreement**, done at Paris on December 12, 2015, do hereby **accept** the said Agreement and **every article and clause** thereof **on behalf of the United States of America.**”

Above issued by the White House.

Item 3:

<https://news.un.org/en/story/2021/01/1082602>

“A new instrument of acceptance of the Paris Agreement by the **US**, expressing its **consent to be bound by the Agreement**, was deposited with the Secretary-General, later in the day”

Above issued by the United Nations.

Item 4:

<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>

“(h) The **Secretary of State, the Secretary of the Treasury**, and the Secretary of Energy **shall** work together and **with the Export-Import Bank of the United States**, the Chief Executive Officer of the DFC, and the heads of other agencies and partners, as appropriate, to identify steps through which the United States can promote **ending international financing of carbon-intensive fossil fuel-based energy** while simultaneously advancing sustainable development and a green recovery, in consultation with the Assistant to the President for National Security Affairs.”

Above issued by the White House.

Item 5:

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/27/fact-sheet-president-biden-takes-executive-actions-to-tackle-the-climate-crisis-at-home-and-abroad-create-jobs-and-restore-scientific-integrity-across-federal-government/>

- The **order directs federal agencies to eliminate fossil fuel subsidies** as consistent with applicable law and identify new opportunities to spur innovation, commercialization, and deployment of clean energy technologies and infrastructure.

Above issued by the White House

Item 6:

<https://www.whitehouse.gov/briefing-room/press-briefings/2021/01/27/press-briefing-by-press-secretary-jen-psaki-special-presidential-envoy-for-climate-john-kerry-and-national-climate-advisor-gina-mccarthy-january-27-2021/>

Q And just a follow-up on that, perhaps, for Secretary Kerry: **How do you assure international partners that the U.S. will stick to whatever you propose after having seen the Trump administration take the U.S. out of the Paris Accord?**

SECRETARY KERRY: **That's precisely why we're going to stick by it, and I think our word is strong.**

Above issued by the White House.

Item 7:

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/23/fact-sheet-president-bidens-leaders-summit-on-climate/>

“On the first day of the summit, President Biden upped the ante. He announced the United States will target reducing emissions by 50-52 percent by 2030 compared to 2005 levels.

The U.S. International Development Finance Corporation (DFC) is committing to achieve a net zero investment portfolio by 2040, the earliest target of any G7 or G20 development finance institution (DFI), and to make at least one-third of all its new investments have a climate nexus beginning in FY 2023.”

Above issued by the White House.

Item 8:

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/>

“On Day One, President Biden fulfilled his promise to rejoin the Paris Agreement and set a course for the United States to tackle the climate crisis at home and abroad, reaching net zero emissions economy-wide by no later than 2050.

The United States is not waiting, the costs of delay are too great, and our nation is

resolved to act now. Climate change poses an existential threat..."

Above issued by the White House.

Item 9:

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/23/leaders-summit-on-climate-summary-of-proceedings/>

"The United States and other countries announced ambitious new climate targets ensuring that nations accounting for half of the world's economy have now committed to the emission reductions needed globally to keep the goal of limiting global warming to 1.5-degrees C within reach. To enshrine this commitment, the United States submitted a new "nationally determined contribution" (NDC) under the Paris Agreement setting an economy-wide emissions target of a 50-52% reduction below 2005 levels in 2030."

Above issued by the White House.

Item 10:

<https://www.state.gov/remarks-on-the-urgency-of-global-climate-action/>

"Under the [Paris] Agreement, each country committed to do what it determined by itself it was willing to do, collectively, to put the world on the right path."

To meet the challenge, at the Leaders' Summit in April, the United States announced an ambitious target of reducing our emissions over the next ten years, by 2030, we will reduce by 50-52

percent. And President Biden has announced bold policies to back that up – **it's not rhetoric, it's real.**

Above issued by the Department of State.

Item 11:

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/15/president-biden-to-host-leader-level-meeting-of-the-major-economies-forum-on-energy-and-climate/>

President Biden has returned the United States to the Paris Agreement and **committed** at the Leaders Summit to **reduce U.S. emissions 50 to 52 percent below 2005 levels in 2030**, in line with limiting warming to 1.5 degrees Celsius above pre-industrial levels.

Above issued by the White House.

Item 12:

<https://www.france24.com/en/live-news/20210203-french-government-found-guilty-in-landmark-lawsuit-over-climate-inaction>

In its ruling on Wednesday, the Paris administrative **court** recognised ecological damage linked to climate change and **held the French state responsible for failing to fully meet its goals** in reducing greenhouse gases.

Above cited by Petitioner in filings with Courts below.

Item 13:

<https://news.un.org/en/story/2021/09/1100242>

“G20 nations account for 80% of global emissions. Their leadership is needed more than ever. The decisions they take now will determine **whether the promise made at Paris is kept or broken**”, he [UN Guterres] warned.

Without pledges and financial commitments from industrialised nations to make this happen, “**there is a high risk of failure of COP26**”, Mr. Guterres continued, referring to the pivotal UN Climate summit in Glasgow in six weeks’ time. Above issued by United Nations.

Petitioner contends UN seeks **pledges** and **financial commitments, not mere promises** at October 31 UN Climate summit (Glasgow).

Petitioner asks this Court to find that RUVA and Executive Branch of Respondent Government cannot ensure pledges and financial commitments without binding, enforceable, enduring commitments that requires Constitution Article II, Section 2 advice, consent and two-third Senate approval.

EXHIBIT 6

ORDER FOR INJUNCTIVE RELIEF

(if granted by Supreme Court Order)

CASES BELOW:

**NO. 21-40310 UNITED STATES COURT OF
APPEALS FOR THE FIFTH CIRCUIT**

**NO. 9:21CV13RC/ZH UNITED STATES
DISTRICT COURT for the EASTERN DISTRICT
OF TEXAS, LUFKIN DIVISION, Filed January
19, 2021**

Until further notice from this Court,
“PCA” means “Paris Climate Accord” and is also called
“Paris Climate Agreement”, “Paris Agreement”,
“Paris Accord”, or “Accord du Paris” in references
cited in above numbered case for Plaintiff’s
Complaint.

1. Respondents, their subordinates, agents,
employees, and all others acting alone or in concert
with them are hereby ordered to not sign any
document purporting to cause USA to re-enter PCA
or enter replacement PCA, or any other material
climate related arrangement with one or more foreign
nations substituting for PCA, without “Advice and
Consent of the Senate” and where “two thirds of the
Senators present concur”, as required by Constitution
Article II, Section 2.

2. Respondents Biden and Kerry are hereby ordered to not act in a manner intended to cause, and instruct their subordinates, agents, employees, and all others acting for the Executive Branch in concert with them to not act in a manner intended to cause, detrimental reliance by members of the USA public or one or more foreign nations that USA has entered or will re-enter PCA or enter replacement PCA, or any other material climate related arrangement with one or more foreign nations substituting for PCA, without "Advice and Consent of the Senate" and where "two thirds of the Senators present concur", as required by Constitution Article II, Section 2.

3. Respondents Biden and Kerry acting alone, or in concert, and USDT, EPA, and NIEHS acting alone, and USDT, EPA and NIEHS in concert, and their subordinates, agents, employees, and all others acting in concert with them, are hereby ordered to not assert to the USA public and foreign nations the idea that they have authority or power to be an environmental lawmaker or have power to bind USA to a non-self executing treaty related to the environment.

4. Respondents Biden and Kerry acting alone, or in concert, and USDT, EPA and NIEHS acting alone, and USDT, EPA, and NIEHS in concert, and their subordinates, agents, employees, and all others acting in concert with them are hereby ordered to not cause USA to be a signatory to any protocol to, or other agreement regarding 1992 UNFCCC at negotiations in Kyoto in December 1997 or thereafter which would: (1) mandate new commitments to limit or reduce greenhouse gas emissions for UNFCCC

Annex 1 Parties, unless the protocol or other agreement also mandates new specific scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties within the same compliance period; or (2) result in serious harm to the U.S. economy, without "Advice and Consent of the Senate" and where "two thirds of the Senators present concur", as required by Constitution Article II, Section 2.

5. Respondents Biden and Kerry acting alone, or in concert, and USDT, EPA, and NIEHS and acting alone, and USDT, EPA, and NIEHS in concert, and their subordinates, agents, employees, and all others acting in concert with them, are hereby ordered to not spend or transfer funds or make grants, loans or contracts for activities, directly or indirectly, having a primary or majority purpose or effect to support or expand PCA , without "Advice and Consent of the Senate" and where "two thirds of the Senators present concur", as required by Constitution Article II, Section 2.

6. Respondents, their subordinates, agents, employees, and all others acting in concert with them are hereby ordered to not continue expenditures of money for activities directly or indirectly in support of PCA, without "Advice and Consent of the Senate" and where "two thirds of the Senators present concur", as required by Constitution Article II, Section 2.

**So Ordered by
UNITED STATES SUPREME COURT**

Justice