

25-567 VERIZON COMMUNICATIONS INC. V. FEDERAL COMMUNICATIONS COMMISSION

DECISION BELOW: 156 F.4th 86

LOWER COURT CASE NUMBER: 24-1733

QUESTION PRESENTED:

Under the Communications Act of 1934, the Federal Communications Commission may assess monetary "forfeiture penalties" for violations of the Act, including the requirement that telecommunications carriers take reasonable measures to protect certain customer data. 47 U.S.C. §§ 222, 503, 504. The FCC may impose such forfeiture penalties in administrative proceedings. *Id.* § 503(b)(4). If a carrier wants to guarantee judicial review, it must pay the penalty and then seek review in a court of appeals, which reviews the agency's order on the administrative record under the deferential standards of the Administrative Procedure Act. 47 U.S.C. § 402(a); 5 U.S.C. § 706(2). If the carrier wants a jury trial, by contrast, it must defy the FCC's order and refuse to pay, after which the Department of Justice may, but is not required to, file a lawsuit in district court to collect the unpaid forfeiture. 47 U.S.C. § 504(a). While waiting for that DOJ lawsuit that might never come, the carrier suffers serious practical and reputational harms from the final FCC order. The question presented is:

Whether the Communications Act violates the Seventh Amendment and Article III by authorizing the FCC to order the payment of monetary penalties for failing to reasonably safeguard customer data, without guaranteeing the defendant carrier a right to a jury trial.

CONSOLIDATED WITH 25-406 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 1/9/2026