United States Court of Appeals
For the First Circuit

No. 26-1922

STATE OF WASHINGTON; STATE OF NEW YORK; STATE OF RHODE ISLAND; STATE OF ARIZONA; STATE OF CALIFORNIA; STATE OF COLORADO; STATE OF CONNECTICUT; STATE OF DELAWARE; DISTRICT OF COLUMBIA; STATE OF ILLINOIS; OFFICE OF THE GOVERNOR, ex rel. ANDY BESHEAR, in the official capacity as Governor of the Commonwealth of Kentucky; STATE OF MAINE; STATE OF MARYLAND; COMMONWEALTH OF MASSACHUSETTS; STATE OF MICHIGAN; STATE OF MINNESOTA; STATE OF NEW JERSEY; STATE OF NEW MEXICO; STATE OF OREGON; GOVERNOR JOSH SHAPIRO, in the capacity as Governor of the Commonwealth of Pennsylvania; STATE OF VERMONT; COMMONWEALTH OF VIRGINIA; STATE OF WISCONSIN,

Plaintiffs - Appellees,

v.

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; ERIC SCOTT TURNER, in the official capacity as Secretary of the United States Department of Housing and Urban Development,

Defendants - Appellants.

No. 26-1923

NATIONAL ALLIANCE TO END HOMELESSNESS; NATIONAL LOW INCOME HOUSING COALITION; CROSSROADS RHODE ISLAND; YOUTH PRIDE, INC.; CITY OF BOSTON; CITY OF CAMBRIDGE; MARTIN LUTHER KING, JR. COUNTY; METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY; COUNTY OF SANTA CLARA; CITY OF TUCSON,

Plaintiffs - Appellees,

v.

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; SCOTT TURNER, in the official capacity as Secretary of the United States Department of Housing and Urban Development; OFFICE OF MANAGEMENT AND BUDGET; RUSSELL VOUGHT, in the official capacity as Director of United States Office of Management and Budget,

Defendants - Appellants.

Before

Montecalvo, Aframe, and Dunlap,
Circuit Judges.

JUDGMENT

Entered: September 24, 2026

These two appeals are from a judgment that entered in the District Court for the District of Rhode Island. The appeals are hereby consolidated. One group of Plaintiff-Appellees has filed an "Emergency Motion for Summary Vacatur and Remand," and the other group of Plaintiff-Appellees has joined in the Emergency Motion's requests. Defendant-Appellants filed an opposition. We take Defendant-Appellants' main basis for objection to be that summary vacatur and remand would provide insufficient future assurances that Plaintiff-Appellees will not again bring the claim that we found unlikely to succeed on the merits.

We address the Emergency Motion as follows. We construe Plaintiff-Appellees by requesting vacatur and remand to have abandoned and formally waived any claim that the challenged actions in this case were contrary to law because of a failure to undertake any statutory notice-and-comment requirements. This claim being the one endorsed by the district court as the legal basis for the judgment, we conclude that there is no longer any live dispute between the parties as to the appeal. Accordingly, vacatur and remand is appropriate, with the understanding that Plaintiff-Appellees are estopped from raising their notice-and-comment claim again in this litigation, and with the expectation that any eventual judgment at the district court will dismiss that claim with prejudice to future reassertion.

The judgment of the district court is hereby **VACATED** and these appeals are **REMANDED** to the district court for further proceedings.

The mandate will issue at 5:00 p.m. today.

By the Court:

Anastasia Dubrovsky, Clerk

cc:
Hon. Mary S. McElroy, Hanorah Tyer-Witek, Clerk, United States District Court for the District of Rhode Island, Andrew R.W. Hughes, Cristina Sepe, Zane Muller, Aliana Claire Knoepfler, Rabia Muqaddam, Victoria Ochoa, Judith N. Vale, Kathryn M. Sabatini, Jordan G. Mickman,

Leonard Giarrano IV, Hayleigh S. Crawford, Michael Louis Newman, Brian Jeffrey Bilford, Joel Marrero, Jarrell Mitchell, Lauren Greenawalt, David Moskowitz, Andrew M. Ammirati, Vanessa L. Kassab, Ian R. Liston, Caroline S. Van Zile, Sarah A. Hunger, Laura Crittenden Tipton, Steven Travis Mayo, Katherine Thompson, James C. Luh, Katherine B. Dirks, Nita Kumaraswami Klunder, Michelle R. Pascucci, Neil Giovanatti, Brian S. Carter, Daniel P. Resler, Anjana Samant, Robert A. Koch, Scott P. Kennedy, Michael J. Fischer, Samuel B. Stratton, Jonathan T. Rose, Tillman J. Breckenridge, Megan C. Keenan, Faye B. Hipsman, Lauren S. Zurier, Kevin M. Bolan, Sarah Clark Griffin, Lynette J. Labinger, Madeline H. Gitomer, Amy Retsinas Romero, Juan Esteban Bedoya, Kevin Love Hubbard, Simon Christopher Brewer, Kristin Bateman, Robin F. Thurston, Carrie Y. Flaxman, Christine L. Coogle, Toby Merrill, Cassandra Crawford, Kayla Max Svihovec, Christopher Michael Sanders, Cristy Craig, Mika Rothman, John Whitaker