

# [***Clarence Thomas' Latest Ruling Shocks Supreme Court Analysts***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6C1W-H3T1-JBR6-9005-00000-00&context=1516831)

Newsweek.com

May 16, 2024 Thursday 2:02 PM EST

Copyright © 2024 Newsweek Inc. All Rights Reserved



**Length:** 886 words

**Byline:** Rachel Dobkin

**Highlight:** Thomas ruled that the funding structure of the Consumer Financial Protection Bureau is legal on Thursday.

**Body**

[*Supreme Court*](https://www.newsweek.com/topic/supreme-court?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) analysts expressed their surprise on Thursday at Justice [*Clarence Thomas*](https://www.newsweek.com/topic/clarence-thomas?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships)'s latest ruling involving the Consumer Financial Protection Bureau (CFPB).

In a 7-2 decision, the court ruled that the funding mechanism of the CFPB is legal, reversing a decision by the New Orleans-based Court of Appeals For The Fifth Circuit. The appellate court previously ruled that the CFPB's funding structure—which draws money from the Federal Reserve every year instead of getting annual funds authorized by [*Congress—*](https://www.newsweek.com/topic/congress?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships)violated the U.S. Constitution's Appropriations Clause.

The case started back in 2018, when the Community Financial Services Association of America and the Consumer Service Alliance of Texas, trade groups representing payday lenders, sued the CFPB.

Thomas, a conservative judge, not only sided with the agency, but wrote the majority opinion in the case.

"Under the Appropriations Clause, an appropriation is simply a law that authorizes expenditures from a specified source of public money for designated purposes," Thomas wrote in the opinion filed on Thursday. "The statute that provides the bureau's funding meets these requirements. We therefore conclude that the bureau's funding mechanism does not violate the appropriations clause."

Three other conservative justices, Chief Justice [*John Roberts*](https://www.newsweek.com/topic/john-roberts?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) and Justices [*Brett Kavanaugh*](https://www.newsweek.com/topic/brett-kavanaugh?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) and [*Amy Coney Barrett*](https://www.newsweek.com/topic/amy-coney-barrett?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships), joined Thomas in the opinion, as did the court's three liberal justices, [*Sonia Sotomayor*](https://www.newsweek.com/topic/sonia-sotomayor?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships), [*Elena Kagan*](https://www.newsweek.com/topic/elena-kagan?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) and [*Ketanji Brown Jackson*](https://www.newsweek.com/topic/ketanji-brown-jackson?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships). Justices [*Samuel Alito*](https://www.newsweek.com/topic/samuel-alito?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) and [*Neil Gorsuch*](https://www.newsweek.com/topic/neil-gorsuch?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships), both conservative, ruled against CFPB.

Court analysts were shocked by this latest move from Thomas.

Josh Chafetz, a law and ***politics*** professor at Georgetown Law, [*wrote*](https://twitter.com/joshchafetz/status/1791109207116104114) on X, formerly [*Twitter*](https://www.newsweek.com/topic/twitter?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships), on Thursday, "A few \*very\* quick thoughts about the CFPB case. First, the Court got it right, 7-2. I expected the Court to get it right; I'm kind of surprised that Thomas wrote it, though."

"I doubt too many folks had 'Justice Thomas saves the CFPB' on their bingo card," Jonathan H. Adler, a professor at the Case Western Reserve University School of Law, [*wrote*](https://twitter.com/jadler1969/status/1791113014986338608).

Meanwhile, Elie Mystal, a justice correspondent for *The Nation*, did not give Thomas credit for this shocking turn of events.

"Kagan wrote a concurrence that was basically like 'even if Thomas hadn't figured it out, the CFPB would also be constitutional for the following reasons,'" Mystal [*wrote*](https://twitter.com/ElieNYC/status/1791110429973852368). "I like the effort to point out that Thomas is a broken clock, even when he lucks into the correct time."

**Differing Opinions**

When approached for comment by *Newsweek*, the CFPB referred to their press release from Thursday, which stated, "For years, lawbreaking companies and Wall Street lobbyists have been scheming to defund essential consumer protection enforcement. The Supreme Court has rejected their radical theory that would have devastated the American financial markets. The court repudiated the arguments of the payday loan lobby and made it clear that the CFPB is here to stay."

"This ruling upholds the fact that the CFPB's funding structure is not novel or unusual, but in fact an essential part of the nation's financial regulatory system, providing stability and continuity for the agencies and the system as a whole. As we have done since our inception, the CFPB will continue carrying out the vital consumer protection work Congress charged us to perform for the American people," the CFPB added.

Meanwhile, the lawyers representing the trade groups in the lawsuit told *Newsweek* via email on Thursday: "We are disappointed with the Supreme Court's decision today. Though the Court has upheld the constitutionality of the bureau's funding, we continue to believe that the challenged CFPB rule is legally flawed, threatens access to credit, and harms the millions of American consumers who rely on small-dollar loans to manage budget shortfalls and unexpected expenses."

*Newsweek* reached out to the Supreme Court via online form for comment.

Meanwhile, Justice Alito wrote in his dissenting opinion: "The Court holds that the appropriations clause is satisfied by any law that authorizes the executive to take any amount of money from any source for any period of time for any lawful purpose. That holding has the virtue of clarity, but such clarity comes at too high a price.

"There are times when it is our duty to say simply that a law that blatantly

attempts to circumvent the Constitution goes too far. This is such a case. Today's decision is not faithful to the original understanding of the appropriations clause and the centuries of history that gave birth to the appropriations requirement, and I therefore respectfully dissent."

President [*Joe Biden*](https://www.newsweek.com/topic/joe-biden?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships), meanwhile, called the court's ruling an "unmistakable win for American consumers" in a statement on Thursday.

"Every step of the way, while the CFPB and I have fought for the middle class, [*Republicans*](https://www.newsweek.com/topic/republicans?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) in Congress and in states across the country have stood with special interests who want to keep ripping families off. In the face of years of attacks from extreme Republicans and special interests, the court made clear that the CFPB's funding authority is constitutional and that its strong record of consumer protection will not be undone," Biden added.

*Update 5/16/24, 2:08 p.m. ET: This article was updated with comment from the trade groups' representation.*

[*Link to Image*](https://d.newsweek.com/en/full/2394292/clarence-thomas.jpg)

**Graphic**

Clarence Thomas

Alex Wong/Getty Images

United States Supreme Court Associate Justice Clarence Thomas poses for an official portrait at the East Conference Room of the Supreme Court building on October 7, 2022, in Washington, DC.

**Load-Date:** May 16, 2024

**End of Document**