

Whether the case signals a shift away from evidentiary hearing requirements in the context of regulatory adjudication will depend on future developments.⁸³⁵

A delay in retrieving money paid to the government is unlikely to rise to the level of a violation of due process. In *City of Los Angeles v. David*,⁸³⁶ a citizen paid a \$134.50 impoundment fee to retrieve an automobile that had been towed by the city. When he subsequently sought to challenge the imposition of this impoundment fee, he was unable to obtain a hearing until 27 days after his car had been towed. The Court held that the delay was reasonable, as the private interest affected—the temporary loss of the use of the money—could be compensated by the addition of an interest payment to any refund of the fee. Further factors considered were that a 30-day delay was unlikely to create a risk of significant factual errors, and that shortening the delay significantly would be administratively burdensome for the city.

In another respect, the balancing standard of *Mathews* has resulted in states' having wider flexibility in determining what process is required. For instance, in an alteration of previously existing law, no hearing is required if a state affords the claimant an adequate alternative remedy, such as a judicial action for damages or breach of contract.⁸³⁷ Thus, the Court, in passing on the infliction of corporal punishment in the public schools, held that the existence of common-law tort remedies for wrongful or excessive administration of punishment, plus the context in which the punishment was administered (*i.e.*, the ability of the teacher to observe directly the infraction in question, the openness of the school environment, the visibility of the confrontation to other students and faculty, and the likelihood of parental reaction to unreasonableness in punishment), made reasonably assured the probability that a child would not be punished without cause or excessively.⁸³⁸ The Court did not, however, inquire about the availability of judicial remedies for such violations in the state in which the case arose.⁸³⁹

⁸³⁵ For analysis of the case's implications, see Rakoff, *Brock v. Roadway Express, Inc., and the New Law of Regulatory Due Process*, 1987 SUP. CT. REV. 157.

⁸³⁶ 538 U.S. 715 (2003).

⁸³⁷ See, *e.g.*, *Lujan v. G & G Fire Sprinklers, Inc.*, 523 U.S. 189 (2001) (breach of contract suit against state contractor who withheld payment to subcontractor based on state agency determination of noncompliance with Labor Code sufficient for due process purposes).

⁸³⁸ *Ingraham v. Wright*, 430 U.S. 651, 680–82 (1977).

⁸³⁹ *Ingraham v. Wright*, 430 U.S. 651, 680–82 (1977). In *Memphis Light, Gas & Water Div. v. Craft*, 436 U.S. 1, 19–22 (1977), involving cutoff of utility service for non-payment of bills, the Court rejected the argument that common-law remedies were sufficient to obviate the pre-termination hearing requirement.