

A federal statute provides that the United States Supreme Court has authority to review any case filed in a United States court of appeals, even if that case has not yet been decided by the court of appeals.

The Environmental Protection Agency (EPA), an agency in the executive branch of the federal government, issued an important environmental rule. Although the rule had not yet been enforced against them, companies that would be adversely affected by the rule filed a petition for review of the rule in a court of appeals, seeking a declaration that the rule was invalid solely because it was beyond the statutory authority of the EPA. The companies made no constitutional claim. A statute specifically provides for direct review of EPA rules by a court of appeals without any initial action in a district court.

The companies have filed a petition for a writ of certiorari in the Supreme Court requesting immediate review of this case by the Supreme Court before the court of appeals has actually decided the case. The EPA acknowledges that the case is important enough to warrant Supreme Court review and that it should be decided promptly, but it asks the Supreme Court to dismiss the petition on jurisdictional grounds.

What is the best constitutional argument in support of the EPA's request?

- A. Article III precludes federal courts from reviewing the validity of any federal agency rule in any proceeding other than an action to enforce the rule.
- B. Article III provides that all federal cases, except those within the original jurisdiction of the Supreme Court, must be initiated by an action in a federal district court.
- C. The case is appellate in nature, but it is beyond the appellate jurisdiction of the Supreme Court, because Article III states that its jurisdiction extends only to cases arising under the Constitution.
- D. The case is not within the original jurisdiction of the Supreme Court as defined by Article III, and it is not a proper subject of that court's appellate jurisdiction because it has not yet been decided by any lower court.

Explanation:

Article III of the Constitution states that the **U.S. Supreme Court** (SCOTUS) has both:

- **original jurisdiction** – the authority to **directly review** (1) cases involving an **ambassador, public minister, or consul** and (2) cases in which a **state is a party and**
- **appellate jurisdiction** – the authority to **overturn, modify, or affirm** a decision made by a lower federal court or a state's highest court in **all other cases** falling within federal judicial power.

Here, the companies filed a petition for a writ of certiorari requesting that SCOTUS immediately review their case against the EPA. But the case is not within SCOTUS's *original* jurisdiction as narrowly defined by Article III. And since the case has not yet been decided by a lower court—ie, there is no decision being appealed from—it is not a proper subject of SCOTUS's *appellate* jurisdiction. Accordingly, that is the best constitutional argument in support of the EPA's request.

(Choice A) Article III *allows* federal courts to review the validity of a federal rule in a proceeding other than an action to enforce the rule. For example, federal courts may issue a declaratory judgment that a rule is invalid before it has been enforced if the plaintiff faces imminent harm.

(Choice B) Under Article III, Congress has broad power to regulate the original and appellate jurisdiction of lower federal courts. As a result, a federal case can be initiated by an action in a U.S. court of appeals rather than a U.S. district court if authorized by Congress.

(Choice C) SCOTUS's appellate jurisdiction extends to all cases arising under the Constitution, a treaty, or federal law (as seen here). But this case is not appellate in nature since there is no lower court decision to review.

Educational objective:

The U.S. Supreme Court (SCOTUS) has original jurisdiction in (1) cases involving an ambassador, public minister, or consul and (2) cases in which a state is a party. But in all other cases, SCOTUS's appellate jurisdiction requires a lower court decision.

References

- Balt. & Ohio R.R. Co. v. Interstate Com. Comm'n, 215 U.S. 216, 224–25 (1909) (explaining that SCOTUS has original jurisdiction in limited circumstances and that appellate jurisdiction requires a lower court decision).
- 32 Am. Jur. 2d Federal Courts § 453 (2019) (defining original and appellate jurisdiction).

Jurisdiction of United States Supreme Court

