

Biden administration orders short-term delay in evictions

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The Centers for Disease Control and Prevention (CDC) issued a new 60-day moratorium on evictions Tuesday, a few days after a previous moratorium had been allowed to expire by the Biden administration.

The new extension applies until Sunday, October 3, literally the eve of the traditional resumption of the Supreme Court's annual term on the "first Monday in October." But it is almost certain that some federal court will strike down the CDC moratorium long before that, citing the language of a Supreme Court ruling issued June 29.

In that decision, rejecting a challenge filed by Alabama landlords, the court upheld a previous CDC eviction moratorium by a 5-4 margin. But Justice Brett Kavanaugh, the decisive fifth vote, wrote a brief concurrence declaring that he only agreed not to strike down the moratorium immediately because it was scheduled to expire on July 31, and some time was required to allow tenants and landlords to adjust to the end of the moratorium, which has been in effect since September 2020.

Landlord groups are expected to challenge the new CDC freeze on evictions within a matter of days, bringing lawsuits in various federal courts. One or another federal judge is expected to issue a nationwide injunction halting the moratorium and thus allowing evictions to proceed.

The new CDC order represents an attempt to skirt the terms of Kavanaugh's concurrence by changing the language of the moratorium. Instead of a nationwide ban on evictions, the CDC covers only counties experiencing "substantial" or "high" levels of COVID-19 spread. These terms currently cover 80 percent of all US counties and 90 percent of the US population.

The CDC also based the ban on the emergence of the

Delta variant of SARS-CoV-2, which is far more transmissible and may be far more deadly, and was only a small factor in the pandemic at the time the Alabama landlords filed the suit that culminated in Kavanaugh's declaration.

"The emergence of the Delta variant has led to a rapid acceleration of community transmission in the United States, putting more Americans at increased risk, especially if they are unvaccinated," CDC Director Rochelle Walensky said Tuesday. "This moratorium is the right thing to do to keep people in their homes and out of congregate settings where COVID-19 spreads."

The CDC statement declared, self-evidently, that the moratorium on eviction "can be an effective public health measure utilized to prevent the spread of communicable disease" because it would allow people to stay in their own homes rather than congregating in setting like shelters.

Addressing the question at a press briefing Tuesday, Biden admitted that the moratorium extension was "not likely to pass constitutional muster." But he argued that some legal advisers held a different opinion, and it would be worth the risk to give more time for those facing eviction, who might be able to access federal money already appropriated by Congress, but not yet delivered by the states and cities.

"At a minimum, by the time it gets litigated, it will probably give some additional time while we're getting that \$45 billion out to people who are in fact behind in the rent and don't have the money," Biden said.

Up until Tuesday, the Biden administration had consistently maintained that it had no constitutional authority to extend the moratorium beyond the July 31 deadline set by Kavanaugh. The White House flatly rejected appeals by "left" Democrats led by

Representative Cori Bush of St. Louis, Missouri for emergency action to prevent a huge new wave of evictions.

Bush gained wide publicity by staging a “sleep-in” on the steps of the Capitol, to symbolize the plight of the homeless, and was joined by Rep. Alexandria Ocasio-Cortez and others among the Progressive Caucus of the Democratic Party.

Some 11 million people are behind in their rent, mainly as a result of the impact of the pandemic on the US economy. Nearly four million people, responding to a Census Bureau survey, said they were in danger of eviction, either imminently or within a short period of time.

In his remarks at the White House Tuesday, Biden again blamed the dangers of the nationwide surge in the Delta variant on the population, calling it a “largely preventable tragedy.” He claimed, “we have the tools to prevent this rise in cases from shutting down our businesses, our schools, our society.”

The supposed conflict between the White House and congressional “progressives” is of a largely theatrical character, but both sides have a common fear. The concern is that the social crisis in major cities and deprived rural areas is on the brink of an explosion, and that a surge in evictions could provide the spark.

Bush, Ocasio-Cortez and other “lefts” are seeking to bolster the credibility of the Democratic Party and demonstrate that under Biden, the federal government is susceptible to pressure from below that was ignored or publicly spurned under Trump.

The White House is well aware of the rising social tensions among working people and reversed itself because of this, but the action is likely to be an empty gesture.

Congressional Republicans are denouncing the eviction moratorium as a violation of the Constitution, although a one-page concurrence by Justice Kavanaugh is hardly a declaration by the Founding Fathers. Moreover, they supported Trump when he was trampling the Constitution to build his border wall in the absence of a congressional appropriation of the necessary funding.

“Biden even admits it’s unconstitutional! Lawless,” said Senator Tom Cotton (R-Arkansas), on Twitter. This is the same senator who penned an op-ed last summer urging Trump to declare martial law and

mobilize the military on American streets to suppress the mass protests against police violence triggered by the police murder of George Floyd.



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