

"The DC Circuit Court of Appeals decision concludes that federal administrative law judges (ALJs) are no different than any other Executive Branch federal employee.

"To the extent that ALJs have been given the title "judge" by the Administrative Procedure Act (APA), it is a deception inducing the American public to trust the federal government's assurance that ALJ decisions are "independent" of influence by the agencies which employ them. The Circuit Court concludes that those provisions of the APA designed to prevent improper influence or control over the decisions of ALJs are mere "personnel actions" which are outside the federal courts' jurisdiction because of the Civil Service Reform Act (CSRA).

"Under the CSRA, the Merit Systems Protection Board has long since decided it has no jurisdiction over complaints by ALJs, unless they arise in the context of disciplinary actions brought against an ALJ by their employing agency. Because the agency proposed no disciplinary action against Judge Mahoney, there is effectively no venue for him to assert the protections of the APA in the face of improper agency influence on his administrative decision-making.

"The facts of this case demonstrate that, although the Executive Branch touts ALJs as independent decision makers, federal agencies may with impunity undermine—directly and indirectly—the ability of ALJs to decide cases independently. The law of this case confirms that federal ALJs are no different than any other Executive Branch employee, and the Judicial Branch is powerless to accord them any true judicial status."

- J. Jeremiah Mahoney, acting chief administrative law judge for the U.S. Department of Housing and Urban Affairs