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The White-Collar Wage War: Fifth Circuit Backs DOL's Power To Set Salary Threshold



In *Mayfield v. United States Dep't of Labor*, the U.S. Court of Appeals for the Fifth Circuit [affirmed](#) a lower court's ruling that the U.S. Department of Labor (DOL) has authority to set a minimum salary threshold for the white-collar exemptions under the Fair Labor Standards Act (FLSA). The Fifth Circuit held that the FLSA provides the DOL with the statutory authority to undertake rulemaking to set a minimum salary level, and the exercise of that authority does not violate constitutional principles.

Background

The FLSA establishes various labor protections, including minimum wage requirements and overtime pay for employees who work more than 40 hours in a week. While broadly defining who qualifies as an employee, the FLSA also exempts certain workers from overtime pay, such as those in executive, administrative, or professional roles (the EAP or white-collar exemptions). Previously, the DOL exercised the authority to define the terms of this exemption, including issuing a minimum-salary rule that prevents workers from being exempt from overtime pay when their salary falls below a specified level. In 2019, the DOL issued a new "Minimum Salary Rule" that raised the minimum salary level to qualify as exempt from overtime pay under the FLSA from \$455 per week to \$684 per week (the 2019 Rule).[\[1\]](#)

Robert Mayfield, a small business owner, challenged the DOL's 2019 rule on grounds that Mayfield's business model relies on rewarding top-performing store managers with high bonuses. Mayfield claimed that the 2019 rule requiring higher salaries for all managers limits his ability to incentivize the best performers. He argued the DOL lacks, and has always lacked, the authority to define the white-collar exemptions in terms of salary level.

The DOL's Authority

The Fifth Circuit held the DOL has the statutory authority to set and update a minimum salary level for the white-collar exemptions. The Fifth Circuit held that the authority is based on the DOL's power to "define and delimit," meaning it can define and determine the terms of the FLSA's EAP exemptions.

Arguments

Mayfield argued the DOL lacked authority to set any salary requirement, as the FLSA's statutory language in the exemptions relates solely to an employee's job duties rather than the level of pay. As such, setting a salary threshold exceeded the authority conferred by the statute. The Fifth Circuit panel rejected narrow reading of the statute and determined that setting a salary threshold was a reasonable proxy for the status implied by the terms "executive," "administrative," and "professional." In addition, the DOL's history of rulemaking for decades without Congress limiting the power to regulate the salary threshold factored significantly into the Fifth Circuit's decision.

Major Questions Doctrine

The plaintiff claimed that the DOL's actions violated the major questions doctrine because the change in the salary threshold level could potentially result in a significant impact on the economy. According to the Supreme Court of the United States in *West Virginia v. EPA*, 597 U.S. 697, 723 (2022), in those instances where a significant impact exists, Congress must have clearly granted the authority for the agency to act. The Fifth Circuit rejected this argument and found that, while the 2019 Rule has some economic and political impact, the impact was not economically significant enough to trigger the doctrine. The panel determined that the DOL's increase of the salary threshold did not amount to the hundreds of billions of dollars of economic impact found to trigger the doctrine in the past. Also, the Fifth Circuit reasoned that the use of salary level to determine which employees should be exempt under the FLSA is not politically contentious enough to trigger the doctrine.

Statutory Authority

Next, the Court determined whether the FLSA delegates authority to the DOL to set a minimum salary threshold. The FLSA gives the DOL the authority to "define and delimit" the terms of the EAP exemptions. Mayfield put forth the argument that the power to "define and delimit" the terms of the EAP exemptions is only the power to specify and enumerate the *duties*—not the salary—that qualify an employee for the EAP exemptions. The Court disagreed because the terms in the text of the statute, "executive, administrative, or professional capacity" connotes a particular status or level that is tied to salary.

Nondelegation Doctrine

Mayfield also argued that the rule violated the nondelegation doctrine, which prohibits Congress from delegating its legislative powers without an "intelligible principle" to guide the agency. The "intelligible principle test" requires Congress to provide guidance that includes a general policy and the boundaries of statutorily delegated authority to agencies. The Fifth Circuit disagreed with Mayfield, finding that the DOL's actions were in line with Congress' broad goal in passing the FLSA to improve labor conditions and specifically in directing the DOL to define the white-collar exemptions. The Court reasoned that the DOL considers whether a particular group of workers is subject to the problems the FLSA seeks to remedy when developing rules defining which workers are exempt under the FLSA.

Next Steps for Employers

This decision maintains the broad latitude afforded to the DOL in regulating labor standards and reaffirms its authority to adjust salary thresholds for exempt employees. Also, this decision could affect courts who are determining the validity of the DOL’s 2024 Rule that significantly increases the minimum salary threshold. Employers should contact experienced counsel to determine whether their employees are properly classified under the FLSA and comply with all applicable DOL regulations.

Endnotes

[1] In 2024, the DOL issued another new “Minimum Salary Rule” that raised the minimum salary level to qualify as exempt from overtime pay from \$684 per week to \$884 per week, beginning July 1, 2024 (the 2024 Rule). On January 1, 2025, the 2024 Rule further increases the minimum salary threshold to \$1,128 per week. You can read more about the 2024 rule [here](#).

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