

With all the attention being paid to Volodymyr Zelenskyy's visit to Washington, and the release of the January 6th Committee, you might have missed the (second) most important environmental story of the week:

> The U.S. Postal Service will buy 66,000 vehicles to build one of the largest electric fleets in the nation, Biden administration officials announced Tuesday, turning to one of the most recognizable vehicles on American roads — boxy white mail trucks — to fight climate change.....
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> The eight-year journey to procure new vehicles has been arduous and marked by political battles. White House officials slammed an earlier procurement proposal and said that courts or Congress could intervene to block the purchase of carbon-belching delivery trucks that posed a permanent risk to the planet and public health.

Great news all around. And the cultural impact could be significant as well. As former White House Chief of Staff John Podesta notes in the WaPo piece, people will see electric cars delivering their mail and think that they are indeed practical, affordable, and reliable.

But let's not get too excited too quickly. Note something in the Post piece about the earlier, carbon-belching proposal from USPS? The White House said that courts might block it. Well, both sides can play that game.



Reed O’Connor: Whatever Dems Do, I’m Against It

Meet Reed O’Connor, a district judge in Fort Worth, who is the “go-to” judge for right-wingers attempting to block Democratic policies. O’Connor isn’t so much a jurist as a Heritage Foundation flunky with a robe. And since he is one of only two active district judges in Fort Worth, if right-wingers file in Fort Worth, then there is a good chance they will draw O’Connor – and a nationwide injunction against USPS.



Matthew J. Kacsmaryk: Professional Bigot

Or meet Matthew J. Kacsmaryk, a Trump appointee who is the *only* active district judge in Amarillo. Kacsmaryk's specialty has been trying to turn LGBT people into official *Untermenschen*, but he will do as he's told. A Fifth Circuit post could be waiting for him in the next GOP administration (he is only 45 years old).

Sick of Texas? Head over the border to western Louisiana, where right-wing judges are eager to implement the "Democratic Party" exception to Presidential authority. This is where fossil fuel producer brought *Louisiana v Biden,* which temporarily struck the Biden Administration's social cost of carbon policy *even though it wasn't even a policy yet.* The district opinion in that case would have been hysterical had it not been so awful. It essentially read: "1) Plaintiffs say X; 2) Defendants say Y; 3) Plaintiffs are right." Reasoning was not needed. I am surprised that instead of saying "It is so ordered," Judge James. D. Cain Jr., didn't simply say "Let's Go Brandon."

Now, you might say: but this is ridiculous. On what basis would courts strike down this policy? The earlier policy was forced through but this one was carefully considered and has a wealth of evidence behind it. What could be the justification?

You must be new here.

Consider O'Connor's ruling that the Affordable Care Act was unconstitutional. He held this in *2018,* six years after the Supreme Court ruled it constitutional. Ted Frank, director of litigation at the conservative Competitive Enterprise Institute said the ruling was "embarrassingly bad." Nicholas Bagley said O'Connor's ruling was "about as naked a piece of judicial activism as I have ever seen; I don't even think it's close." Jonathan H. Adler and Abbe R. Gluck, who were on opposing sides of the 2012 and 2015 Supreme Court challenges to the Affordable Care Act, wrote a joint opinion editorial in *The New York Times* where they described the ruling as "lawless", "a mockery of the rule of law and basic principles of democracy" and "an exercise of raw judicial power."

O'Connor's ruling was *upheld* by the 5th Circuit.

Others were reversed, and eventually O'Connor's ACA ruling was reversed by the Supremes (7-2). But who knows what will happen now. And it is basically about timing: the litigation strategy from the Right at this point will be to block these policies until after the 2024 election, at which point they hope another administration will reverse it. So stay tuned. The federal government's procurement

power lies at the apex of its authority, so any reasonable judge will uphold it. But that’s the whole point: in their favored districts, right-wing judges are simply not reasonable.

Once again, the Shultz Principle of American Politics applies: It’s Never Over.