

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Harry Wiley v. Robert F. Kennedy Jr., in his official capacity as
Secretary of Health and Human Services, and U.S. Department of
Health and Human Services

Wiley · No. 2:25-cv-00227 · Decided December 16, 2025

SUMMARY

The United States District Court for the Southern District of West Virginia reviews defendants’ objections to a magistrate judge’s discovery order in an Administrative Procedure Act case concerning the alleged shutdown and restructuring of NIOSH Respiratory Health Division programs. The court sustains the objections in part, requires defendants to produce a responsive administrative record, permits plaintiffs to seek additional discovery if the record is incomplete, lifts the stay, and requires the parties to submit a revised schedule.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia
WRITING FOR THE COURT	Irene C. Berger
JURISDICTION	United States District Court for the Southern District of West Virginia
DECIDED	December 16, 2025
DOCKET	2:25-cv-00227
DISPOSITION	other
PROCEDURAL POSTURE	Defendants objected under Federal Rule of Civil Procedure 72(a) to a magistrate judge's nondispositive order denying their motion for a protective order concerning discovery in an Administrative Procedure Act case.
STANDARD OF REVIEW	Under Federal Rule of Civil Procedure 72(a), a district court must modify or set aside a magistrate judge's nondispositive order that is clearly erroneous or contrary to law. Factual findings are reviewed for clear error, while questions of law receive review equivalent in practice to de novo review under the contrary-to-law standard.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion and order

PARTIES

Robert F. Kennedy Jr., in his official capacity as Secretary of Health and Human Services, U.S. Department of Health and Human Services
v. Harry Wiley, individually and on behalf of all others similarly situated

TOPICS

discovery dispute

administrative procedure act

judicial review of agency action

civil procedure

motions to dismiss

PRACTICE AREAS

administrative law

civil procedure

health law

federal employment law

QUESTIONS PRESENTED

1. Whether the magistrate judge clearly erred or acted contrary to law in denying Defendants' motion for a protective order against discovery.
2. Whether discovery in this Administrative Procedure Act case should be limited to the administrative record and broader discovery barred before Defendants produce a responsive administrative record.
3. Whether discovery should be stayed pending resolution of Defendants' motion to dismiss, including arguments concerning standing and mootness.

HOLDINGS

1. The magistrate judge's order was well reasoned and free of clear error, and the district court did not find a basis to set it aside under Rule 72(a).
2. Defendants were entitled to an order precluding broader discovery until they produced a responsive administrative record, but the court would permit Plaintiffs to seek additional discovery if the produced record remained incomplete or nonresponsive.
3. The request to stay discovery pending resolution of the motion to dismiss was denied.

KEY QUOTATIONS

“In APA cases, “the focal point for judicial review should be the administrative record already in existence, not some new record made initially in the reviewing court.”” (at 4)

“There has been no indication that the decision to shut down NIOSH and the specific challenged programs followed standard administrative decision-making processes or that a typical administrative record explaining the decision(s) exists.” (at 5)

“The administrative record produced by the Defendants is not responsive to the central issue in the case.” (at 5)

“Thus far, the Defendants have produced nothing that provides any explanation for the challenged action(s).” (at 5)

FACTUAL BACKGROUND

Plaintiffs are miners with signs of or diagnoses of black lung who sought access to programs within the National Institute for Occupational Safety and Health's Respiratory Health Division that screen miners and issue Part 90 letters supporting transfer to lower-dust work. After most Respiratory Health Division employees received Reduction in Force notices and were placed on administrative leave, Plaintiffs challenged the effective closure of the division and related programs. Defendants produced records concerning the named Plaintiffs but did not produce documents explaining the employee reductions, restructuring decisions, or future of the challenged programs, and the court found the materials insufficient to permit meaningful judicial review.

PROCEDURAL HISTORY

The case was referred to Magistrate Judge Omar J. Aboulhosn for discovery disputes. The magistrate judge denied Defendants' motion for a protective order, finding no legitimate basis for failing to comply with discovery deadlines in the scheduling order. The district court sustained Defendants' objections in part, granted the protective order to the extent it precluded broader discovery before production of a responsive administrative record, denied a stay of production of that record, ordered production within ten days, and lifted the stay in the case.

DISPOSITION

other

CASES CITED

- Clark v. Milam, 155 F.R.D. 546, 547-48 (S.D. W. Va. 1994)
- Harman v. Levin, 772 F.2d 1150 (4th Cir. 1984)
- HSBC Bank USA, National Association v. Resh, 2014 WL 317820, at *7 (S.D. W. Va. Jan. 28, 2014)
- Robinson v. Quicken Loans Inc., 2013 WL 1704839, at *3 (S.D. W. Va. Apr. 19, 2013)
- Camp v. Pitts, 411 U.S. 138, 142 (1973)
- Department of Commerce v. New York, 588 U.S. 752, 780-81, 785 (2019)
- American Federation of State, County & Municipal Employees, AFL-CIO v. Social Security Administration, 778 F. Supp. 3d 685, 716 (D. Md. 2025)

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