

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States v. Ochs

Ochs · No. Criminal Action No. 21-073-02 (BAH) · Decided April 28, 2026

SUMMARY

In this memorandum opinion, the United States District Court for the District of Columbia denies Nicholas R. Ochs’s unopposed motion for return of payments made toward restitution and a special assessment after his conviction was vacated and he received a presidential pardon. The court concludes that funds deposited in the U.S. Treasury generally cannot be returned absent congressional authorization and that the defendant identified no applicable federal statutory refund mechanism. The opinion also considers, but declines to apply as controlling, the Supreme Court’s decision in *Nelson v. Colorado*.

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	Beryl A. Howell
JURISDICTION	United States District Court for the District of Columbia
DECIDED	April 28, 2026
DOCKET	Criminal Action No. 21-073-02 (BAH)
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for return of restitution, criminal fine, and special-assessment payments after his conviction was vacated and he received a presidential pardon. The government did not oppose the motion.
STANDARD OF REVIEW	The court reviewed the motion as a question of its constitutional and statutory authority to order disbursement of funds deposited in the United States Treasury.
PRECEDENTIAL VALUE	Published district court memorandum opinion

TOPICS

- appropriations
- separation of powers
- constitutional law
- remedies
- post-conviction relief

PRACTICE AREAS

- criminal procedure
- constitutional law
- post-conviction relief
- federal appropriations
- remedies

QUESTIONS PRESENTED

1. Whether the court had constitutional or statutory authority to order the return of restitution and special-assessment payments that had been deposited into the United States Treasury or disbursed to a victim.
2. Whether *Nelson v. Colorado* required the federal government to refund payments made pursuant to a conviction that was later vacated.
3. Whether 31 U.S.C. § 1322 or the Judgment Fund Act, 31 U.S.C. § 1304(a), provided authority for the requested reimbursement.

HOLDINGS

1. A court may not order funds returned from the United States Treasury absent congressional authorization because money deposited in the Treasury may be withdrawn only pursuant to an appropriation enacted by Congress.
2. *Nelson v. Colorado* does not authorize or require a federal court to order reimbursement of funds deposited in the United States Treasury.
3. 31 U.S.C. § 1322 does not authorize reimbursement because the payments were not collections erroneously received or erroneously deposited.
4. The Judgment Fund Act, 31 U.S.C. § 1304(a), does not authorize reimbursement because the vacatur of a criminal judgment is not a final judgment against the United States.

KEY QUOTATIONS

“Moneys once in the treasury can only be withdrawn by an appropriation by law.” (at 14)

“However large, therefore, may be the power of pardon possessed by the President, and however extended may be its application, there is this limit to it, as there is to all his powers,—it cannot touch moneys in the treasury of the United States, except expressly authorized by act of Congress.” (at 14)

“Ochs fails to marshal either a constitutional or statutory basis that would permit this Court to disburse funds from the United States Treasury to pay him the reimbursement he seeks.” (at 22)

FACTUAL BACKGROUND

Ochs pleaded guilty to participating in the January 6, 2021 attack on the United States Capitol, including entering the Capitol, throwing smoke bombs at law enforcement officers, encouraging efforts to frustrate police efforts to secure the building, and defacing property. He was ordered to pay a \$5,000 fine, \$2,000 in restitution, and a \$100 special assessment, of which he paid \$1,569.93. His conviction was later vacated following *Fischer*, and he received a presidential pardon while the vacatur order was stayed.

PROCEDURAL HISTORY

Ochs pleaded guilty to obstruction of an official proceeding and was sentenced to imprisonment, a \$5,000 fine, \$2,000 restitution, and a \$100 special assessment. After *Fischer v. United States* narrowed the application of 18 U.S.C. § 1512(c)(2), the court vacated his conviction under 28 U.S.C. § 2255, subject to a stay, and Ochs later

received a presidential pardon. He had paid \$100 into the Crime Victims Fund and \$1,469.93 in restitution to the Architect of the Capitol. The court denied his motion for reimbursement.

DISPOSITION

other

CASES CITED

- Fischer v. United States, 603 U.S. 480 (2024)
- Flast v. Cohen, 392 U.S. 83, 95 (1968)
- Patchak v. Zinke, 583 U.S. 244, 250 (2018)
- Knote v. United States, 95 U.S. 149, 149, 154, 157 (1877)
- Office of Personnel Management v. Richmond, 496 U.S. 414, 425-26 (1990)
- Consumer Financial Protection Bureau v. Community Financial Services Association of America, Ltd., 601 U.S. 416, 469 (2024) (Alito, J., dissenting)
- In re Madison Guaranty Savings & Loan (McDougal Fee Application), 353 F.3d 53, 55 (D.C. Cir. 2004) (per curiam)
- In re North, 62 F.3d 1434, 1435 (D.C. Cir. 1994)
- United States v. Sullivan, 783 F. Supp. 3d 385, 390-94 (D.D.C. 2025)
- United States v. Vargas, 789 F. Supp. 3d 60, 64-66 (D.D.C. 2025)
- United States v. Hager, No. 21-cr-381 (TSC), 2025 WL 1886135, at *2 (D.D.C. July 3, 2025)
- United States v. Sutton, No. 21-cr-598 (PLF), 2025 WL 2149396, at *2 (D.D.C. July 15, 2025)
- Nelson v. Colorado, 581 U.S. 128, 131-39 (2017)
- Republic National Bank of Miami v. United States, 506 U.S. 80, 94 (1992) (Rehnquist, C.J., concurring in the judgment)
- United States v. Ballenger, 811 F. Supp. 3d 123, 128-30 (D.D.C. 2025)
- United States v. St Cyr, 804 F. Supp. 3d 1, 5, 9 (D.D.C. 2025)
- Acheson Hotels, LLC v. Laufer, 601 U.S. 1, 15 (2023) (Jackson, J., concurring in the judgment)
- United States v. Pogue, 19 F.3d 663, 666 (D.C. Cir. 1994)
- United States v. DeCarlo, No. 21-cr-073 (BAH), 2024 WL 4650993 (D.D.C. Nov. 1, 2024)
- United States v. DeCarlo, No. 21-cr-073 (BAH), 2025 WL 266308, at *3 (D.D.C. Jan. 22, 2025)
- United States v. Reeves, 586 F.3d 20, 22 n.1 (D.C. Cir. 2009)