

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

## SUPREME COURT OF THE UNITED STATES

### Syllabus

#### DARBY ET AL. v. CISNEROS, SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE  
FOURTH CIRCUIT

No. 91-2045. Argued March 22, 1993—Decided June 21, 1993

In a consolidated appeal from decisions by the Department of Housing and Urban Development (HUD) to initiate administrative sanctions against petitioners, an Administrative Law Judge (ALJ) concluded that petitioners should be debarred from participating in federal programs for 18 months. Under HUD regulations, an ALJ's determination "shall be final unless . . . the Secretary . . . within 30 days of receipt of a request decides as a matter of discretion to review the [ALJ's] finding . . ." 24 CFR §24.314(c). Neither party sought further administrative review, but petitioners filed suit in the District Court, seeking an injunction and declaration that the sanctions were not in accordance with law within the meaning of the Administrative Procedure Act (APA). Respondents moved to dismiss the complaint on the ground that petitioners, by forgoing the option to seek review by the Secretary, had failed to exhaust their administrative remedies. The court denied the motion and granted summary judgment to petitioners on the merits of the case. The Court of Appeals reversed, holding that the District Court had erred in denying the motion to dismiss.

*Held:* Federal courts do not have the authority to require a plaintiff to exhaust available administrative remedies before seeking judicial review under the APA, where neither the relevant statute nor agency rules specifically mandate exhaustion as a prerequisite to judicial review. The language of §10(c) of the APA is explicit that an appeal to "superior agency authority" is a prerequisite to judicial review only when "expressly required by statute" or when the agency requires an appeal "by rule and provides that the [administrative] action is . . . inoperative" pending that review. Since neither the National Housing Act nor applicable HUD regulations

mandate further administrative appeals, the ALJ's decision was a "final" agency action subject to judicial review under §10(c). The lower courts were not free to require further exhaustion of administrative remedies, although the exhaustion doctrine continues to apply as a matter of judicial discretion in cases not governed by the APA. Nothing in §10(c)'s legislative history supports a contrary reading. Pp. 6-17.

## DARBY v. CISNEROS

### Syllabus

957 F. 2d 145, reversed and remanded.

BLACKMUN, J., delivered the opinion for a unanimous Court with respect to Parts I, II, and IV, and the opinion of the Court with respect to Part III, in which WHITE, STEVENS, O'CONNOR, KENNEDY, and SOUTER, JJ., joined.