

KAVANAUGH, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 20A169

ALABAMA ASSOCIATION OF REALTORS, ET AL. *v.*
DEPARTMENT OF HEALTH AND HUMAN
SERVICES, ET AL.

ON APPLICATION TO VACATE STAY

[June 29, 2021]

The application to vacate stay presented to THE CHIEF JUSTICE and by him referred to the Court is denied.

JUSTICE THOMAS, JUSTICE ALITO, JUSTICE GORSUCH, and JUSTICE BARRETT would grant the application.

JUSTICE KAVANAUGH, concurring.

I agree with the District Court and the applicants that the Centers for Disease Control and Prevention exceeded its existing statutory authority by issuing a nationwide eviction moratorium. See *Utility Air Regulatory Group v. EPA*, 573 U. S. 302, 324 (2014). Because the CDC plans to end the moratorium in only a few weeks, on July 31, and because those few weeks will allow for additional and more orderly distribution of the congressionally appropriated rental assistance funds, I vote at this time to deny the application to vacate the District Court’s stay of its order. See *Barnes v. E-Systems, Inc. Group Hospital Medical & Surgical Ins. Plan*, 501 U. S. 1301, 1305 (1991) (Scalia, J., in chambers) (stay depends in part on balance of equities); *Coleman v. Paccar Inc.*, 424 U. S. 1301, 1304 (1976) (Rehnquist, J., in chambers). In my view, clear and specific congressional authorization (via new legislation) would be necessary for the CDC to extend the moratorium past July 31.