

Federal Court Declares NCAA Scholarship Limits Illegal but Stops Short of Allowing Full 'Pay-for-Play'

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On March 8, 2019, a federal court in California issued a landmark decision declaring that current NCAA rules restricting the value of Division I athletic scholarships violate antitrust law. However, because it still allows the NCAA to limit payments "not related to education," the ruling may not trigger a radical overhaul of the NCAA system just yet.

As college sports such as football and men's and women's basketball continue to rake in billions of dollars in revenue for schools, coaches, broadcasters, and the NCAA, the chorus of those who assert that Division I athletes should be able to earn a larger share of that revenue has grown ever louder over the last decade. To that end, the plaintiffs in *Alston v. NCAA* - consisting of a class of former Division I athletes - argued that the NCAA "cap" on athletic scholarships at the full cost of attending the school is illegal in that it prevents players such as Heisman trophy winner Kyler Murray and freshman basketball phenomenon Zion Williamson from legally being paid what they would otherwise earn in a free market. The NCAA has long justified rules such as its "grant-in-aid" scholarship cap as a safeguard of "amateurism," which the NCAA characterizes as a necessary pillar of college athletics.

In her 104-page ruling, however, Judge Claudia Wilken of the Northern District of California found that the NCAA's compensation-related rules are arbitrary and "do not follow any coherent definition of amateurism." As a result, she deemed illegal the NCAA's limits on the amount of education-related expenses a school can offer to an athlete. Her order suggests 18 types of "education-related" benefits - such as "computers, science equipment, musical instruments and other tangible items not included in the cost of attendance calculation but nonetheless related to the pursuit of academic studies" - that the NCAA cannot limit. Theoretically, under this ruling, a school or conference could permit a Division I athlete to earn an unlimited amount of compensation - so long as that compensation is education-related.

Nevertheless, Judge Wilken also determined that the NCAA *can* continue to bar players from receiving payments "unrelated to education, akin to salaries seen in professional sports leagues." Limits on such payments, she explained, were necessary to preserve the distinction between college sports and professional sports. This holding tracks the reasoning of the 9th Circuit's decision in *O'Bannon v. NCAA*, which constitutes binding precedent on Judge Wilken's court and held that the NCAA can prohibit payments to athletes "untethered to educational expenses."

Despite Judge Wilken's often acerbic criticism of the NCAA and its adherence to a muddled definition of "amateurism," her ruling preserves the NCAA's ability to prevent Division I athletes from earning any cash that does not directly tie to their educational experience. How the NCAA and its member conferences distinguish "education" from "non-education" related expenses, of course, will be crucial to assessing the ultimate effect of this ruling should it not be overturned.

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or modified on appeal.

The NCAA has 90 days to comply with the order. That period can be delayed, however, if either the NCAA or the plaintiffs appeal to the 9th Circuit, which is highly likely.