
July 2, 2026

Supreme Court Overrules *Humphrey's Executor* but Preserves the Fed's Independence

On June 29, 2026, the U.S. Supreme Court issued two landmark decisions addressing the scope of presidential control over independent federal agencies. In *Trump v. Slaughter*, the Court broadly expanded the President's power to shape the leadership—and thus the policy and enforcement priorities—of those agencies. In *Trump v. Cook*, however, the Court preserved the Federal Reserve leadership's independence in light of that entity's singular role in setting the Nation's monetary policy.

Background

An “independent” federal agency is an agency established by Congress with a statutory limitation on the President's ability to remove the agency's principal officers for political reasons. Although the President generally may select some of those principal officers, he may only remove those officers for cause—that is, for good reason usually having to do with the individual's performance in office rather than their policy priorities.

In the early 20th century, Congress established both the Federal Trade Commission (FTC) and the Federal Reserve as independent agencies empowered to regulate different areas of the national economy. The FTC exercises significant federal authority in the areas of consumer protection and market competition through rulemaking, civil enforcement, and adjudicatory actions. The Federal Reserve controls U.S. monetary policy and the stability of its banking system.

The constitutionality of independent federal agencies was established by the Supreme Court in *Humphrey's Executor v. United States*, 295 U.S. 602 (1935). There, the Court upheld the FTC's for-cause removal provision established by Congress. The Court reasoned that the FTC exercised “quasi-legislative” and “quasi-judicial” functions, and “no part of the executive power,” making permissible some measure of independence from presidential control. That decision distinguished the Court's earlier holding in *Myers v. United States*, 272 U.S. 52 (1926), which had recognized the President's unrestricted power to remove a federal postmaster.

In recent years, the Court called into question the continuing viability of *Humphrey's Executor*. In *Seila Law LLC v. Consumer Financial Protection Bureau*, 591 U.S. 197 (2020), the Court held that the for-cause removal protection shielding the Consumer Financial Protection Bureau's single director was unconstitutional, but the Court stopped short of overruling *Humphrey's Executor*. The following year, in *Collins v. Yellen*, 594 U.S. 220 (2021), the Court extended *Seila Law* to strike down the for-cause removal protection for the Federal Housing Finance Agency's single director. The Court again declined to decide whether *Humphrey's Executor* should be overruled.

That undecided question was presented directly last year. In March 2025, the President removed two FTC Commissioners, stating only that their continued service was inconsistent with administration priorities. Commissioner Rebecca Slaughter sought judicial relief to restore her position. The district court granted summary judgment in her favor, and the D.C. Circuit denied a stay pending appeal. The Supreme Court stayed the district court's order and granted certiorari before judgment.

Separately, in August 2025, the President attempted to remove a member of the Federal Reserve Board of Governors. He sent Governor Lisa Cook a letter stating that he had reason to believe that she may have made false statements on mortgage agreements and declaring her removed from office. Cook filed suit challenging her removal, and the district court issued a preliminary injunction preserving her position. A divided panel of the D.C. Circuit declined to stay the district court's injunction, and the federal government asked the Supreme Court to order Cook removed pending the outcome of her lawsuit. The Supreme Court heard oral argument on the government's request.

The Supreme Court's Decision in *Trump v. Slaughter*

In a 6-3 decision written by Chief Justice Roberts, the Supreme Court overruled *Humphrey's Executor* and held that the FTC's for-cause removal provision violates the constitutional separation of powers. Chief Justice Roberts was joined by Justices Alito, Gorsuch, Kavanaugh and Barrett; Justice Thomas joined all but one part of the majority opinion.

The Court's analysis began with the constitutional text and structure. Article II vests "[t]he executive Power" in a "President of the United States of America" and requires that he "take Care that the Laws be faithfully executed." That design, the Court held, necessarily entails a hierarchy in which executive officers serve as the President's deputies and remain "subject to his superintendence." Because those officers must be accountable to the President, they must be removable by him at will.

The Court traced that principle to the Founding era, emphasizing that the First Congress's "Decision of 1789"—in which Congress confirmed the President's unilateral removal power over department heads—had "settled the question beyond any power of alteration." The Court reaffirmed its century-old holding in *Myers* that the Constitution grants to the President "general administrative control of those executing the laws, including the power of appointment and removal of executive officers" at will.

Turning to *Humphrey's Executor*, the Court explained that the decision had carved out an exception to the general rule from *Myers* premised on the Court's characterization of the FTC's functions as "quasi-legislative" and "quasi-judicial." The majority found that premise to be untenable given the FTC's modern functions—rulemaking, enforcement, and adjudication—all of which involve the exercise of executive power.

Applying *stare decisis*, the majority found every factor favored overruling *Humphrey's Executor*: its reasoning rested on a characterization of the FTC bearing no resemblance to modern reality; it was irreconcilable with *Myers* and the Court's modern separation-of-powers decisions; the distinction between executive power and "quasi-legislative" power had proven unworkable; and reliance interests were insufficient to justify the retention given the magnitude of the constitutional violation.

The Court expressly declined to define the full scope of executive control over independent agencies and left open the possibility that some functions traditionally handled outside the Executive Branch may not be encompassed by the general rule from *Myers*. Anticipating its ruling in *Trump v. Cook*, the Court identified the Federal Reserve as a potential exception to that general rule. The Court also noted that the permissibility of tenure protections for non-Article III courts—such as the Tax Court and the Court of Federal Claims—was neither presented nor briefed and was left for another day. Finally, noting that the issue was not before the Court, the majority did not decide whether the unconstitutional for-cause removal provision of the FTC Act is severable from the other statutory provisions that define the FTC's authority.

Justice Gorsuch joined the majority opinion in full and wrote separately to address what he viewed as an important implication of the decision. He observed that independent agencies exercise not only executive power but also legislative and judicial powers delegated by Congress. Justice Gorsuch observed that, with the removal of tenure protections, the President can now more closely direct the exercise of those powers. Justice Gorsuch raised the question whether Congress would have delegated so much authority to the relevant agencies had it anticipated the Court's holding. He suggested that the end of removal protections for independent agencies might prompt reconsideration of whether grants of authority to those agencies comport with the non-delegation doctrine.

Justice Sotomayor, joined by Justices Kagan and Jackson, dissented. She argued that the majority's decision was "egregiously wrong" and that constitutional text, history, precedent and 140 years of consistent political practice all support Congress's power to limit the removal of FTC Commissioners.

The Supreme Court's Decision in *Trump v. Cook*

In a 5-4 decision also written by Chief Justice Roberts, the Court denied the government's request for President Trump to be allowed to remove Federal Reserve Governor Lisa Cook while her case was proceeding through the courts. Chief Justice Roberts

was joined by Justices Sotomayor, Kagan, Kavanaugh and Jackson. Justices Thomas, Alito, Gorsuch and Barrett each filed dissenting opinions.

The Court began by addressing the government's three arguments that immediate removal should be allowed because the President was likely to prevail on the merits. First, the Court rejected the government's argument that Cook's removal was not subject to judicial review. Second, the Court held that, for purposes of the Federal Reserve, "cause" for removal must "impl[y] an unfitness for the place" and not merely represent an effort to secure a "more congenial" replacement. Third, the Court disagreed with the government that the federal courts lack authority to order Cook's reinstatement pending litigation.

Having rejected those arguments, the Court proceeded to hold that Cook was likely to prevail on her claim because the President had not afforded her the procedural protections to which she was entitled before her removal. At a minimum, the Court held, the Governor was entitled to "some explanation of the evidence at issue, some avenue for a response, and a deadline by which a response would be due."

Critically, the Court then proceeded to address the constitutionality of the for-cause removal restriction on the Federal Reserve Governors in response to Justice Thomas's dissent. The Court observed that the Founders had known firsthand "the calamities that could arise from even the 'suspicion' of political manipulation of monetary policy." The First and Second Banks of the United States had thus been structured to operate independently of presidential control. The Federal Reserve, the Court reasoned, follows in that tradition. While acknowledging that the Federal Reserve is more powerful today than its predecessors, the Court concluded that the relevant constitutional question is whether the institution remains "consistent with the principles that underpin" the First and Second Banks—namely, that "monetary policy should not be subject to political interference." The Court held that it does.

Justice Kavanaugh and Justice Jackson filed concurring opinions. Justice Kavanaugh emphasized that the government itself "acknowledged" and "did not dispute" the "longstanding historical practice and understanding" that the Federal Reserve is an independent agency whose Governors permissibly enjoy for-cause removal protection. He further underscored the risk of leaving the Federal Reserve's constitutional status in doubt; in Justice Kavanaugh's view, even temporary uncertainty "could spark political upheaval" and "turmoil in the U.S. and world economies." Justice Jackson focused on the equities of interim relief, explaining her view that the government had not identified any cognizable irreparable harm from the district court's injunction and that the public's interest in the Federal Reserve's independence weighed heavily against a stay.

Justice Thomas dissented in full. He would have found the removal restriction to be unconstitutional under the broad removal power the Court announced in *Slaughter*; he would have held that no judicial remedy was available to cure Cook's removal; and he would have found no statutory requirement of notice and a hearing. Justice Alito, joined by Justice Gorsuch, dissented on narrower grounds, explaining his view that the Court should have ruled on the stay application promptly and without issuing a sweeping opinion on questions not yet developed in the lower courts. Justice Barrett similarly objected to the breadth of the Court's ruling, particularly the resolution of the constitutional question.

Implications

Together, *Slaughter* and *Cook* represent a significant increase in the President's authority over independent federal agencies while preserving the Federal Reserve's independence.

Agencies whose enabling statutes contain for-cause removal provisions may be subject to leadership changes in accordance with the Court's holding. Whether any given independent agency performs a core "executive" function, however, such that a president may remove its leadership at will, may well be subject to further litigation. Regulated entities may also see more regular policy shifts if presidents seek to appoint agency leadership aligned with their priorities following the Court's decision.

At the same time, significant questions remain unresolved. The Court's exemption of the Federal Reserve from the rule announced in *Slaughter* suggests that not all agencies will be treated alike, but the precise boundaries of the exceptions remain unclear. The Court's silence on inferior officers and civil-service protections leaves open the question whether the decision will extend to the broader federal workforce. And Justice Gorsuch's concurrence raises the prospect that the decision could have downstream effects on the nondelegation doctrine, potentially prompting future challenges to Congress's practice of granting broad rulemaking authority to these executive agencies.

Significantly, the Court did not decide in *Slaughter* whether its decision has any effect on existing agency actions, including enforcement decisions, consent decrees and rulemaking. Parties subject to adverse actions by independent agencies may seek

Supreme Court Overrules *Humphrey's Executor* but Preserves the Fed's Independence

to challenge those actions on the basis that the agencies' enabling statutes are fundamentally compromised following the Court's abrogation of *Humphrey's Executor*. Parties may also argue that, to the extent Congress delegated to the agency impermissibly broad powers, those powers must be severed and the agency's authority curtailed. Even if past agency actions are not automatically void merely because an agency's independent structure was unlawful, the courts will likely be called on to decide whether specific agencies' actions remain valid in particular cases.

* * *

This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

John P. Carlin

+1-202-223-7372

jcarlin@paulweiss.com

Katherine B. Forrest

+1-212-373-3195

kforrest@paulweiss.com

Melinda Haag

+1-628-432-5110

mhaag@paulweiss.com

Gregory F. Laufer

+1-212-373-3441

glaufer@paulweiss.com

William T. Marks

+1-202-223-7314

wmarks@paulweiss.com

Ian C. Richardson

+1-202-223-7405

irichardson@paulweiss.com

Associate Jordan Orosz contributed to this Client Memorandum.