

# Supreme Court backs Trump purge of regulatory agencies—except for Federal Reserve

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In a sweeping decision Monday, the US Supreme Court ruled that the president of the United States has absolute authority over all agencies of the executive branch, including those explicitly established by Congress with limited independence.

The decision in *Trump v. Slaughter* ratifies Donald Trump's firing without cause of a member of the Federal Trade Commission (FTC), overturning 90 years of practice and precedent.

*Trump v. Slaughter* was decided 6-3 along the usual ideological lines, six conservatives vs three moderates. The majority opinion by Chief Justice John Roberts upholds Trump's March 2025 summary termination of FTC Commissioner Rebecca Slaughter. Trump fired both Democratic members of the FTC, Slaughter and Alvaro Bedoya, and did not nominate Democratic replacements, although the FTC is by law bipartisan.

The court ruling overturned a 90-year-old precedent, set in the 1935 case *Humphrey's Executor v. FTC*, which upheld the power of Congress to establish regulatory agencies at least somewhat insulated from the White House. The president appoints the members of these agencies, who are confirmed by the Senate, but cannot dictate their decisions or fire them without cause.

Moreover, these agencies, such as the FTC, the National Labor Relations Board, the Securities and Exchange Commission, and the Federal Communications Commission, generally have five-member boards, with no more than three from the same party.

In Trump's first term, he complied with this legal requirement. Slaughter was a Democratic member of the FTC, whom he nominated in 2018, and she was reappointed by Joe Biden in 2023. But since taking office for his second term, Trump has asserted far more sweeping authority, firing most Democratic members of

independent agencies and placing them under unchallenged control by his own nominees, such as Brendan Carr at the FCC, a leading advocate of media censorship.

Slaughter sued to keep her position on the basis that Congress created the FTC and dozens of similar regulatory commissions to be independent of direct executive control. The enabling laws provide that commissioners must be confirmed by the Senate to serve for a set term and can only be removed for "inefficiency, neglect of duty, or malfeasance in office."

Roberts flatly declared in his majority opinion, "If anything more is left of *Humphrey's*, we overrule it." He added, "We hold that such protection from removal is contrary to the separation of powers enshrined in the Constitution."

This amounts to codifying into law the ultra-right "unitary executive" theory which treats the entire US executive branch as though it were embodied in a single individual in the White House, who can dictate the actions of every federal employee.

Trump gloated on Truth Social, "It is such an Honor to be the sitting President who won this Historic and Unprecedented Ruling, one of the most important ever given with respect to Presidential Powers."

Justice Sonia Sotomayor spelled out the ominous implications of the decision by reading her dissenting opinion from the bench.

"Today, the Court discards that democratic regime in favor of one that distorts the structure of Government to fit the majority's theory of unitary, total executive control," she wrote. "The result is a President who emerges with far greater power than ever before. It is a power, however, that neither the People, nor Congress, nor the Constitution bestowed upon him."

“Seldom, if ever, has this Court worked such a profound bait and switch on a coequal branch,” Sotomayor wrote. “For more than 90 years, Congress believed, with this Court’s express approval, that it was allowed to create a workable government, including by granting certain agencies tasked with certain responsibilities some independence from presidential control.”

Referring to the American Revolution, whose 250th anniversary is around the corner, Sotomayor concluded that the majority “gives the President a power unknown even to the English Crown against which the Founders revolted, elevating him above his once-coequal branches by transforming a duty to take care that the laws be faithfully executed into a license to act in defiance of those very laws.”

A second decision issued Monday, however, exempts from this new “at-will” rule Federal Reserve Board governors. The Fed manages transactions among banks, and sets interest rates. Formally, it is little different from other independent federal agencies, in that the president nominates its members, and the Senate confirms them, but the board then operates on its own, without taking direction from the White House.

In a contorted 5-4 ruling, also written by Roberts, joining the three moderates and right-wing Justice Brett Kavanaugh, the court ruled in favor of Fed governor Lisa Cook, whom Trump attempted to remove on the basis of an alleged minor misrepresentation on a mortgage application prior to her appointment and Senate confirmation.

Cook sued on the basis that she had no opportunity to dispute the charge, which she said was “flimsy” and “conveniently timed following the President’s criticism of the board’s policy decisions.” The lower courts ruled that Cook should remain in office while her litigation continues, the ruling affirmed Monday.

Flagrantly contradicting his own opinion in the *Slaughter* case, Roberts wrote that were Cook not provided an opportunity to contest the charge, it “would in effect transform the Federal Reserve’s for-cause protection into at-will employment—an interpretive leap out of step with the statute Congress enacted and our Nation’s tradition of central banking protected from political interference.”

The obvious conflict between the *Slaughter* and *Cook* decisions demonstrates the class role of the Supreme Court and all the institutions of the American government. The US ruling class is perfectly willing to allow Trump to run roughshod over regulatory agencies which are

regarded as a nuisance anyway by Corporate America. But the Fed plays a vital role in propping up the financial system, particularly over the past 40 years of endless bailouts of Wall Street speculation. Trump is seen in financial circles as too unstable and too preoccupied with his personal and political interests to be given total control of the banking system.

In Monday’s other decisions, the Supreme Court ruled 5-4 that mail-in ballots postmarked before but received after an election date can be counted, with Roberts and the three moderates joining the majority opinion by Justice Amy Coney Barrett, and by a vote of 6-3 that police seeking cellphone location data from providers must obtain a warrant.

The narrow margin in the mail-in voting decision shows how close the United States is to the open rigging of elections by Trump and his fascist cohorts. The mail-in ballot is the predominant form of voting in a half dozen states, including California, Colorado, Oregon, Washington and Alaska, and is permitted in most states. It is the main target of Trump’s “Save America Act,” which would place federal elections under direct control of his administration, despite constitutional provisions that clearly reserve such authority to the states.

In a personal setback for Trump, the Supreme Court finally denied his petition for certiorari seeking review of the \$5 million personal judgment obtained against him by E. Jean Carroll that had been pending since last February. The jury findings are now a final judgment that Trump defamed her after she publicly accused him of sexually assaulting her in a department store in 1996. Trump is expected to file another petition in a subsequent defamation case that resulted in an \$83 million verdict in Carroll’s favor.



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