

SCOTUS likely to back Trump’s power to fire independent agency members

BY MARK SHERMAN
ASSOCIATED PRESS

WASHINGTON — The Supreme Court on Monday seemed likely to expand presidential control over independent federal agencies, signaling support for President Donald Trump’s firing of board members.

The court’s conservative majority suggested it would overturn a unanimous 90-year-old decision that has limited when presidents can fire agencies’ board members — in part to try to ensure decision making free of political influence — or leave it with only its shell intact.

Justice Brett Kavanaugh said the crux of the issue is that the officials who direct the agencies “are exercising massive power over individual liberty and billion-dollar industries” without being accountable to anyone.

Liberal justices warned that a ruling sought by the administration to overturn the decision known as Humphrey’s Executor would give the president, as Justice Elena Kagan said, “massive unchecked, uncontrolled power.”

Agencies that have been in place for a century or more also would be robbed of their expertise, Justice Ketanji Brown Jackson said.

“So having a President come in and fire all the scientists and the doctors and the economists and the PhDs and replacing them with loyalists and people who don’t know anything is actually not in the best interest of the citizens of the United States,” Jackson said.

No president before Trump has sought to wrest control of the agencies that regulate wide swaths of American life, including nuclear energy, product safety and labor relations. But the six conservatives, including three appointed by Trump, seemed more concerned about issuing a ruling that would endure

than handing too much power to Trump.

Their rhetoric was reminiscent of the presidential immunity case in 2024 that allowed Trump to avoid prosecution for his efforts to undo the 2020 election results. The court is writing a decision “for the ages,” Justice Neil Gorsuch said then.

Solicitor General D. John Sauer, who argued the immunity case for Trump, defended the president’s decision to fire Federal Trade Commission member Rebecca Slaughter without cause and called on the court to jettison Humphrey’s Executor.

Sauer said the decision “hasn’t withstood the test of time” and had enabled a “headless fourth branch” of government, the administrative state that conservatives and business interests have been taking aim at for decades.

Chief Justice John Roberts referred to Humphrey’s Executor as “a dried husk.”

The conservative side of the court already has signaled support for the administration’s position, over the liberals’ objection, by allowing Slaughter and the board members of other agencies to be removed from their jobs even as their legal challenges continue.

Members of the National Labor Relations Board, the Merit Systems Protection Board and the Consumer Product Safety Commission also have been fired by Trump.

The only officials who have so far survived efforts to remove them are Lisa Cook, a Federal Reserve governor, and Shira Perlmutter, a copyright official with the Library of Congress.

The court has suggested that it will view the Fed differently from other independent agencies, and Trump has said he wants her out because of allegations of mortgage fraud. Cook says she did

nothing wrong.

A second question in the Slaughter case could affect Cook. Even if a firing turns out to be illegal, the court wants to decide whether judges have the power to reinstate someone.

Gorsuch wrote earlier this year that fired employees who win in court can likely get back pay, but not reinstatement.

That might affect Cook’s ability to remain in her job. The justices have seemed wary about the economic uncertainty that might result if Trump can fire the leaders of the central bank. The court will hear separate arguments in January about whether Cook can remain in her job as her court challenge proceeds.

Kavanaugh signaled that he is inclined to side with Cook, describing as an “end run” the idea that an illegally fired official would only be entitled to her salary.

Under Roberts’ leadership, the court has issued a series of decisions dating back to 2010 that have steadily whittled away at laws restricting the president’s ability to fire people.

In 2020, Roberts wrote for the court that “the President’s removal power is the rule, not the exception” in a decision upholding Trump’s firing of the head of the Consumer Financial Protection Bureau despite job protections similar to those upheld in Humphrey’s case.

In the 2024 immunity decision, Roberts included the power to fire among the president’s “conclusive and preclusive” powers that Congress lacks the authority to restrict.

The court also was dealing with an FTC member who was fired, by President Franklin Roosevelt in 1935, who preferred his own choice at an agency that would have a lot to say about the New Deal.



AP Photo/Evan Vucci
White House press secretary Karoline Leavitt speaks during a press briefing at the White House on Dec. 1 in Washington.

Judge orders release of immigrant with ties to Leavitt

BY HOLLY RAMER
ASSOCIATED PRESS

CONCORD, N.H. — A Brazilian woman with family ties to White House press secretary Karoline Leavitt will be released from ICE custody while she fights potential deportation, an immigration judge ruled Monday.

Bruna Ferreira, 33, a longtime Massachusetts resident, was previously engaged to Leavitt’s brother, Michael. She was driving to pick up their 11-year-old son in New Hampshire when she was arrested by Immigration and Customs Enforcement agents in Revere, Massachusetts, on Nov. 12.

Ferreira later was moved to a detention facility in Louisiana, where an immigration judge ordered that she be released on \$1,500 bond, her attorney Todd Pomerleau said.

“We argued that she

wasn’t a danger or a flight risk,” he said in a text message. “The government stipulated to our argument and never once argued that she was criminal illegal alien and waived appeal.”

The Department of Homeland Security previously called Ferreira a “criminal illegal alien” and said she had been arrested for battery, an allegation her attorney denied. Neither the department nor the White House press secretary responded to requests for comment Monday.

Pomerleau said his client came to the U.S. as a toddler and later enrolled in the Deferred Action for Childhood Arrivals program, the Obama-era policy that shields immigrants who were brought to the U.S. as children. He said she was in the process of applying for a green card.

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