

JULY 2, 2026 | TRADITIONAL LABOR RELATIONS

# Trump has the last laugh as Supreme Court's Slaughter decision strengthens presidential control over executive-branch officers, including the NLRB

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On May 27, 1935, the Supreme Court decided the case of *Humphrey's Executor*. That decision upheld the constitutionality of for-cause removal protections for commissioners at the Federal Trade Commission. Specifically, the Court held that the provisions of the Federal Trade Commission Act that stated, "any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office," prevented the removal of a commissioner without cause.

Thirty-nine days after that, on July 5, 1935, President Roosevelt signed the National Labor Relations Act (NLRA), which created the National Labor Relations Board (NLRB) and provided similar for-cause removal protections: "Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause."

Just under ninety-one years later, on June 29, 2026, the Supreme Court ruled 6-3 in *Trump v. Slaughter* that the statutory for-cause removal protections for FTC commissioners violate Article II of the Constitution, and so (as many had predicted) overruled *Humphrey's Executor*. Because the Executive Power is vested "in one person – 'a President of the United States of America,'" wrote Chief Justice Roberts, the statute's "protection from removal is contrary to the separation of powers enshrined in the Constitution."

## The President Alone Oversees the Executive Branch

Noting that the Constitution not only vests all Executive Power in the President but also instructs that he "take Care that the Laws be faithfully executed," Roberts concluded that "[t]o remain accountable to the President" for the exercise of his power and the discharge of those duties, other subordinate officers in the executive branch "must be removable by the President."

The Court thus upheld President Trump's firing of Rebecca Slaughter, a former commissioner of the FTC, stating: "[a]ll we do today is recognize what has been clear for a century – that those who fall within the President's 'general administrative control' must be removable by the President at will." The Court concluded:

**To discharge the duties of his trust, the President must have the assistance of officers he can**

**trust. Although it is up to the Senate to decide whether to confirm those with whom the President would prefer to work, neither Congress nor the courts may saddle him with those with whom he cannot work. Subordinates who exercise the President's power are subject to removal by him. Then, and only then, can they remain accountable to the President, and the President to the people.**

## Impact on the NLRB

Given the similar for-cause removal protection language in the NLRA and other agency statutes, the *Slaughter* ruling will likely have a direct and lasting impact on the NLRB, and almost every other governmental agency.

We will probably find out soon, in any event – when he entered office in January 2025, President Trump fired NLRB member Gwynne Wilcox. Wilcox sued and initially won reinstatement before the Supreme Court intervened in May 2025 and granted the government's request for a stay of the lower courts' orders while the case was litigated. It is difficult to believe that Wilcox has much chance of winning reinstatement – there is little doubt that NLRB members wield executive power, and given the *Slaughter* ruling, subordinate officers must be accountable to the President and thus removable at will.

So, *Slaughter's* immediate impact will allow any president to act swiftly to remove members misaligned with administration priorities and (subject to Senate confirmation) install others thought to be in better alignment. One would also expect that Board members, knowing removal is now available without statutory cause, are likely to be more responsive to the President's policy direction. The result is a Board more likely to reliably reflect the views of the elected president rather than operating with significant autonomy from the Executive Branch.

That said, the *Slaughter* decision arrives against the backdrop of the Supreme Court's 2024 ruling in *Loper Bright*, which eliminated deference to federal agencies like the NLRB. Together, these developments point toward reduced oscillation in NLRB policy positions. Whereas in the *Chevron* era, successive Boards could advance sharply different interpretations of the same statutory language and produce dramatic swings in precedent, under *Loper Bright*, the statute itself—as interpreted by the courts—will exert stronger control. This means future Boards – however composed – will have less room to adopt expansive or novel readings that stray far afield from the statutory text.

## Conclusion

For good or ill, employers should expect the NLRB to operate with greater accountability to the sitting President. However, as courts demand closer adherence to the statutory text, the frequency and severity of abrupt policy reversals that have characterized recent decades may decline, notwithstanding any turnover in Board members. It is hoped that the combined effect produces more stable and predictable labor-law doctrine over time, with changes occurring primarily through statutory amendment or clear judicial rulings rather than constantly shifting agency interpretations.

At a minimum, Ms. Wilcox will not be returning to the Board, and the President undoubtedly has more control over federal agencies. In this sense, you might eliminate the "v" from *Trump v. Slaughter* and think of the case as "Trump's Laughter" – for now, anyway, it seems that President Trump is having the last laugh.

