



FOR IMMEDIATE RELEASE

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In NCLA Amicus Win, D.C. Circuit Recognizes President Trump’s Right to Fire Principal Officer

Hampton Dellinger v. Scott Bessent, Secretary of the Treasury, et al.

Washington, DC (March 6, 2025) – The U.S. Court of Appeals for the D.C. Circuit has [stayed](#) a district court’s permanent injunction, which would have allowed Hampton Dellinger to remain head of the U.S. Office of Special Counsel (OSC) despite President Donald Trump’s firing him. The D.C. Circuit’s decision means Mr. Dellinger is instead removed from office as President Trump directed. Following the circuit court’s ruling, Dellinger announced he will end his lawsuit. The New Civil Liberties Alliance had filed an *amicus curiae* [brief](#) in *Bessent v. Dellinger* at the U.S. Supreme Court during an earlier stage of the case, pointing out that the President has absolute constitutional authority to remove top executive branch officials at will—particularly from agencies like OSC led by a single head. NCLA commends the D.C. Circuit for ending the district court’s interference with the President’s removal power, which ensures federal officials’ full accountability to the elected Chief Executive.

The Constitution vests all executive power in the President. The Founders understood that “executive power” included the ability to execute the law, as well as the nation’s action, strength, or force. That understanding confirms a President’s broad authority to remove executive branch officials. As the Supreme Court held in 2020 in *Seila Law v. Consumer Financial Protection Bureau*, the President maintains authority to both “supervise and remove the agents who wield executive power in his stead.” That removal authority must be absolute for the President to be able to uphold his constitutional duty to “take Care that the Laws are faithfully executed.” While the Constitution limits the President’s appointments power by creating a role for the Senate to advise and consent sometimes, that document does not place any such limits on the President’s ability to remove executive officials.

The President can delegate executive authority to subordinates, which is often practically necessary to run the government. The threat of removal is the only certain way he can control those to whom he delegates power, ensuring that their actions remain consistent with his policies and priorities. A federal district court judge lacks the power to bar the President from firing a top executive branch official—let alone to force that person’s reinstatement. That is why prior lawsuits from fired federal officials have sought back pay, not reinstatement. The district judge’s overreach represented a grave usurpation of the President’s Article II authority. While the Supreme Court temporarily allowed Dellinger to remain in office, holding in abeyance the government’s application to vacate the district court’s decision, the D.C. Circuit has now wisely reversed the district court. Assuming the D.C. Circuit still issues an opinion in the case even though Mr. Dellinger has now ended his lawsuit, that opinion will be posted [here](#) when it is released.

NCLA released the following statements:

“Yesterday’s decision by the D.C. Circuit righted the wrong one federal judge inflicted on our constitutional separation of powers. Dellinger’s decision to drop his lawsuit is nothing more than a calculated attempt to prevent the Supreme Court from vindicating President Trump’s removal authority.”

— **Margot Cleveland, Of Counsel, NCLA**

“It is gratifying to see the D.C. Circuit recognizing that the President would have succeeded on the merits of his argument that Executive Branch officers serve at his pleasure. At the same time, it is disappointing that the District Court arrogated to itself the power to determine who serves in the Executive Branch and for how long. The Constitution vests executive power in the President, and courts should honor the Framers’ considered decision.”
— **Greg Dolin, Senior Litigation Counsel, NCLA**

“Today is Alamo Day, but Hampton Dellinger announced he will not go down fighting. Surrender makes sense since his effort to fight his removal was doomed from the outset. Twice in recent years the Supreme Court has already ruled that the President may fire at will an executive official who is the sole head of a federal agency.”
— **Mark Chenoweth, President, NCLA**

For more information visit the *amicus* page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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