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NCLA Asks Supreme Court to Decide District Courts Cannot Reinstate Fired Executive Branch Officials

Donald J. Trump, President of the United States, et al. v. Gwynne A. Wilcox;
Scott Bessent, Secretary of the Treasury, et al. v. Cathy A. Harris

Washington, DC (April 14, 2025) – The New Civil Liberties Alliance filed an *amicus curiae* [brief](#) today urging the U.S. Supreme Court to stay district court injunctions purporting to reinstate National Labor Relations Board (NLRB) Chair Gwynne Wilcox and Merit Systems Protection Board (MSPB) Chair Cathy Harris after President Donald Trump fired them. The President has absolute constitutional authority to remove executive branch officers, which includes NLRB and MSPB members. NCLA encouraged the Justices to grant *certiorari* and review the injunctions in Wilcox and Harris’s cases without waiting for an appeals court to do so, to resolve this recurring problem before district courts order still more fired Executive Branch officials to be reinstated.

The Constitution vests *all* executive power in the President. That grant of power is complete and exclusive. It necessarily carries with it the authority to appoint, oversee, direct, and, when necessary, remove officers who wield executive power in the President’s name. Of course, the President must delegate executive authority to subordinates to run the day-to-day operations of the Executive Branch. But those officers exercise executive powers on behalf of the President and so must remain under his control. As the Supreme Court recently held 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 uphold his constitutional duty to “take Care that the Laws be faithfully executed.”

The threat of removal is the only certain way the President can control those to whom he delegates such power, ensuring that their actions or inactions remain consistent with his policies and priorities. A federal district court judge lacks the power to enter an injunction that stops the President from firing his subordinate—let alone one that forces that person’s reinstatement. Any appointee so reinstated would owe her position to the judge, not to the President, which would cause her loyalties to be divided (at best) and would remove her incentive to heed the President’s policies. For this reason, prior lawsuits from fired federal officials sought back pay, not reinstatement. The district judges in the Wilcox and Harris cases overreached mightily by usurping executive power.

NCLA released the following statements:

“If President Truman’s famous desk sign, ‘The Buck Stops Here,’ is correct, then the President must be able to remove officers who purport to exercise executive power on his behalf. Otherwise, the buck would stop somewhere else entirely—namely the desks of subordinate officers.”

— **Sheng Li, Litigation Counsel, NCLA**

“It is long past time for the Supreme Court to recognize the basic constitutional truth—there is only one Executive Branch headed by the President. There is no ‘fourth branch’ of government. Therefore, anyone who exercises any executive power must be responsible to the President who is, in turn, responsible to the American people.”

— **Greg Dolin, Senior Litigation Counsel, NCLA**

“Article II of the Constitution grants the executive power to the President. The executive power encompasses the power to appoint officials and the power to remove officials. The Constitution then cabins the President’s ability to appoint officers, for example by requiring advice and consent from the U.S. Senate for some appointments. However, the Constitution does not constrain the removal power at all, so it remains absolute and unlimited.”

— **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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