A Civics in Real Life series

THE DOCKET

Trump v. Slaughter

Civics is all around us. The United States Supreme Court is the highest court in the land. Through its power of judicial review, its decisions have a lasting impact on "We the People". So what is the Court hearing this session and how might the justices rule? Let's help each other expand our civic literacy.

The Case of Removals Power

The Facts of Trump v. Slaughter :

On December 8, 2025, the Supreme Court will hear oral arguments for Trump v. Slaughter. This case asks whether Congress may protect members of independent commissions (in this case, the Federal Trade Commission (FTC)) from presidential removal except "for cause," and whether the courts can reinstate an unlawfully removed official.

Rebecca Slaughter was originally nominated by Trump in 2018 to serve as one of five FTC commissioners. In 2023, President Biden nominated her to serve a second term, which was scheduled to end in 2029. In March of 2025, Slaughter received an email sent on Trump's behalf, indicating she had been removed from the agency, citing that her service was "inconsistent with the Administration's priorities."

This case directly involves a New Deal-era decision, *Humphrey's Executor v. United States* (1935). In 1933, President Roosevelt requested the resignation of William E. Humphrey, a Hoover-reappointed commissioner of the FTC, because he was a conservative and had jurisdiction over many of the New Deal Policies. Humphrey refused to resign and was fired over his policy positions. The FTC Act only allows for a president to remove a commissioner for "inefficiency, neglect of duty, or malfeasance in office." Humphrey passed away, but his executor sued over lost salary. In a unanimous decision, the Court found that the FTC Act was constitutional, and Humphrey's dismissal on policy grounds was unjustified. They stated that because the FTC is a body created by Congress to perform quasi-legislative and quasi-judicial functions, it cannot be treated as other units of the executive department, as its duties are neither political nor executive.

Earlier this year, Slaughter sued, alleging she was wrongfully terminated and argued that the Trump Administration did not provide a statutory cause. A federal judge in Washington, D.C., ordered the Trump administration to allow Slaughter to return to office while the challenge to her termination continued. However, in September, in an unusual turn of events, the court granted certiorari before judgment and a stay, which allowed President Trump to remove Commissioner Slaughter while the case proceeded.

There are two constitutional questions at play in this case:
1. Do the statutory removal protections for members of the Federal Trade Commission violate the separation of powers and, if so, should Humphrey's Executor v. U.S. be overruled?
2. Can a federal court prevent a person's removal from public office, either through relief at equity or at law?

In their brief, the petitioners (Trump et al.) claim that Article II states that the executive power of the presidency allows for the at-will removal authority over executive officers to ensure accountability and faithful execution of laws. Congress cannot insulate officials exercising executive power from presidential control by for-cause tenure rules. They state that the removal limitation is unconstitutional and that Humphrey's Executor should be overruled or confined.

In their brief, the respondents (Slaughter et al.) claim that for-cause tenure has been upheld in Court for more than a century. They state that removing protections for members of the FTC would violate the separation of powers.

The Supreme Court will consider whether the statutory removal protections for members of the FTC violate the separation of powers.

Supreme Court Precedents Used in this Case:

- *Humphrey's Executor v. United States* (1935) – Upheld for-cause limits for FTC commissioners, stressing the Commission's quasi-legislative/judicial character and distinguishing purely executive officers. It is the core precedent Trump v. Slaughter puts in play.
- *Myers v. United States* (1926) - Recognized broad presidential removal power over purely executive officers (e.g., postmasters), often read as contrasting with Humphrey's Executor's allowance for limits on independent, quasi-legislative/judicial bodies.
- *Morrison v. Olson* (1988) - Sustained for-cause removal limits for the independent counsel, holding that such restrictions did not unduly impede the President's constitutional functions.
- *Free Enterprise Fund v. PCAOB* (2010) - Invalidated double-layer for-cause protection (Board members insulated by two tiers), emphasizing that excessive insulation unduly limits presidential oversight.
- *Seila Law LLC v. CFPB* (2020) and *Collins v. Yellen (2021)* - Held that Congress cannot insulate a single-director agency wielding significant executive power from at-will removal, narrowing the reach of Humphrey's Executor and reinforcing the unitary executive model.

To Think and To Do: The Supreme Court has to decide two big questions about the separation of powers. First, can Congress make rules that stop the president from firing members of independent agencies like the Federal Trade Commission unless there is a good reason? Second, can a court put someone back in their job if the president removed them without following the law? Given the precedents used in this case, how do you think the justices will rule? Explain.

To Learn MORE about this case, view the Brief for the Petitioners, Donald J. Trump, President of the United States, et al. and the Brief for the Respondent, Rebecca Kelly Slaughter, et al.