



Written by [Raven Clabough](#) on August 28, 2018

Judge: Trump “Exceeded” Presidential Authority With Executive Orders Targeting Unions

Ketaji Brown Jackson, a U.S. District Judge of the U.S. District Court for the District of Columbia, has ruled that President Trump “exceeded his authority” in issuing executive orders that targeted federal worker unions’ collective bargaining rights and grievance procedures.



At issue are executive orders issued in May that instructed federal agencies to renegotiate all union contracts, limited the amount of paid time workers could use for union-related business, and reduced the amount of time low-performing employees have to improve their performance before their positions were terminated.

[According to the Washington Times](#), the current process involved in terminating a federal employee for poor performance or misconduct takes anywhere from six months to a year, and sometimes longer if the employee appeals the dismissal.

President Trump touted the orders as his way of fulfilling his promise to deliver a more efficient government, noting that they would save taxpayers an estimated \$100 million a year.

Predictably, Trump’s executive orders faced swift criticism from federal unions, which immediately filed suit against the orders.

“President Trump’s illegal action was a direct assault on the legal rights and protections that Congress specifically guaranteed to the public-sector employees across this country who keep our federal government running every single day,” said American Federation of Government Employees President J. David Cox, Sr.

The unions argued that the orders were illegal because federal law requires the government to negotiate with federal employee unions over these types of changes. Of course, what are the odds that the unions would negotiate away these rights?

Judge Jackson sided with the unions, claiming that the president did not have the power to “eviscerate the right to bargain collectively” without consent from Congress.

“This Court finds that these provisions conflict with congressional intent in a manner that cannot be sustained,” the Obama appointee wrote in her 122-page ruling.

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The *New York Times* explains that the White House had attempted to “pre-empt this critique in the text of the executive orders, styling the provisions as mere goals that the federal agencies should try to bring about through bargaining with the unions rather than unilateral mandates.” But Judge Jackson



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rejected this effort in her ruling, stating that the law requires agencies to negotiate in “good faith” and that the executive orders undermined “the ability of agency officials to keep an open mind, and to participate fully in give-and-take discussions, during collective bargaining negotiations.”

Ultimately, Judge Jackson contends that Trump’s orders overstepped the president’s authority by attempting to take away rights that are protected by federal law.

“In this court’s view, these directives undermine federal employees’ right to bargain collectively as protected by [federal law],” the judge wrote. “As a result, the president must be deemed to have exceeded his authority in issuing them.”

According to the government unions, President Trump’s executive orders created an atmosphere of fear amongst union workers.

“Employees are really frightened,” said Loni Schultz, a union official representing workers at the Social Security Administration in the Midwest. “They’re frightened about losing jobs. They have house payments, car payments, childcare.”

It’s true that governance through executive order is dangerous. For too long, presidents have relied on executive orders to sidestep Congress and essentially impose unconstitutional laws. But surely exceptions should be made for executive orders that undo previously signed unconstitutional executive orders?

It’s unclear whether the Trump administration intends to appeal the ruling. The administration has had poor luck in courts, with a federal judge ruling earlier this month that the administration must start accepting applications for DACA, a program the president attempted to close via executive order. The courts have repeatedly blocked the administration’s attempts to roll back environmental regulations, and are stalling Trump’s prohibitions on transgender individuals serving in the military.

Even President Trump’s court victories are narrow. He was forced to reformulate the administration’s temporary suspension on travel from certain countries several times before it was ultimately upheld by the Supreme Court in a tight 5-4 ruling.



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