



POLITICS

Trump administration wants the Supreme Court to let the firing of whistleblower agency head proceed



President Donald Trump walks from the Oval Office to departing on Marine One from the South Lawn of the White House, Friday, Feb. 14, 2020, in Washington. (AP Photo/Alan Bauer)

BY MARK SHERMAN AND [LINDSAY WHITEHURST](#)

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WASHINGTON (AP) — The Trump administration wants the Supreme Court to permit [the firing of the head of the federal agency](#) dedicated to protecting whistleblowers, according to documents obtained Sunday that would mark the first appeal to the justices since President Donald Trump took office.

The emergency appeal is the start of what probably will be a steady stream from lawyers for the Republican president and his administration seeking to undo lower court rulings that have slowed his second term agenda.

The Justice Department's filing obtained by The Associated Press asks the conservative-majority court to lift a judge's court order temporarily reinstating Hampton Dellinger as the leader of the Office of Special Counsel.

Dellinger has argued that the law says he can only be dismissed for problems with the performance of his job, none of which were cited in the email dismissing him.

The petition came hours after a divided appeals court panel refused on procedural grounds to lift the order, which was filed Wednesday and expires on Feb. 26.

The case is not expected to be docketed until after the Supreme Court returns from the Presidents Day holiday weekend. The justices would not act until Tuesday at the earliest.

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It's not clear what reception Trump will get from the conservative-dominated court that includes three justices he nominated in his first term.

The case began last week when Dellinger sued over his removal as head of the Office of Special Counsel, which is responsible for guarding the federal workforce from illegal personnel actions, such as retaliation for whistleblowing. He was appointed by Democratic President Joe Biden and confirmed by the Senate to a five-year term in 2024.

Dellinger said the office's work "needed now more than ever," noting the "unprecedented" number of firings, without cause, of federal employees with civil service protections in recent weeks by the Trump administration.

The administration argues that the order reinstating Dellinger for two weeks wrongly restricts what the president can do. The brief cites the Supreme Court decision that gave Trump immunity from criminal prosecution and reflected a muscular view of executive power.

"Until now, as far as we are aware, no court in American history has wielded an injunction to force the president to retain an agency head," acting Solicitor General Sarah M. Harris wrote.

The brief references some of the dozen or more cases where judges have slowed Trump's agenda, including by ordering the temporary lifting of a foreign aid funding freeze and blocking workers with Elon Musk's so-called Department of Government Efficiency team from accessing Treasury Department data for now.

The executive branch has argued since the Carter administration that the Office of Special Counsel is the kind of job where the president should have the power to hire and fire, and letting the order in Dellinger's case stand could "embolden" judges to issue additional blocks in the roughly 70 lawsuits the Trump administration is facing so far, the Justice Department argues.

Dellinger's firing was the latest move in Trump's sweeping effort to shrink and reshape the federal government, testing the limits of well-established civil service protections by [moving to dismantle federal agencies](#) and push out staffers.

The independent Office of Special Counsel is separate from Justice Department special counsels such as [Jack Smith](#), who are appointed by the attorney general for specific investigations, such as Smith's criminal investigation of Trump before he returned to the White House.



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