

Trump asserts expansive power to fire Cook

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The Trump administration on Friday asserted vast powers to fire members of the Federal Reserve as it urged a federal judge to reject a request by Lisa Cook, a Fed governor, to remain at the central bank while she contests the legality of her recent dismissal.

Lawyers for President Donald Trump pressed their case over a nearly two-hour hearing that concluded with no immediate resolution. But the arguments framed the stakes in the emerging legal battle, which may determine the future of the Fed and its ability to set interest rates free from political meddling.

Lawyers for the Justice Department argued that federal law generally affords Trump great deference to determine the circumstances that would allow him to oust a Fed governor "for cause," a term generally understood to mean professional neglect or wrongdoing. In the case of Cook, the president has accused her of mortgage fraud, an allegation that predates her Senate confirmation in 2022. Cook has not been charged with any crime or convicted of any wrongdoing.

"The president has a constitutional obligation to follow the law — doesn't always mean it is subject to judicial review." said Yaakov Roth, the Justice Department lawyer who represented Trump at Friday's hearing.

In a filing Friday, Trump's lawyers asserted that the court should be "highly deferential" to the president and his interpretation of what qualifies as sufficient cause to remove a government official. Roth said that even if Cook made a mistake in filling out her mortgage forms, that would be considered "negligent and therefore itself grounds for removal."

Cook's lawyers on Friday sought to impress on Jia M. Cobb, a judge on the U.S. District Court for the District of Columbia, that the Fed governor did not have ample opportunity to respond to any of the claims. The accusations of wrongdoing were first levied on social media Aug. 20 by Bill Pulte, the director of the Federal Housing Finance Agency, who called on Cook to resign. By Aug. 22, Trump said he would fire Cook if she did not step down. Three days after that, he sent a letter telling Cook she had been dismissed.

Cook's lawyers also stressed that the court could not discount the context of her firing, which occurred as Trump sought to pressure the Fed into lowering interest rates. Abbe Lowell, a lawyer representing Cook, repeatedly pointed to instances when the president attacked the central bank and its members or bragged about the prospect that he soon could secure a majority of voting members on the nation's central bank.

"A bad motive can illuminate the fact that there is no cause," Lowell said.

Cobb offered no indication of how she might rule during the hearing, which she convened to hear a motion that would allow Cook to continue serving at the Fed while the case proceeded. Lawyers for Cook have expressed concern that the president could try to appoint and confirm a replacement even before the lawsuit is settled.

At times, Cobb appeared skeptical of the administration's claims that it could fire officials for cause with limited judicial review.

She said she was "uncomfortable," at one point, over how to factor in the president's attacks on the Fed in her review of Trump's ability to dismiss central bankers in cases of wrongdoing.

Congress erected guardrails to protect the Fed from undue pressure from the White House, by limiting the president's ability to remove officials from their positions and mandating that members of the Board of Governors be confirmed by the Senate. The Fed is also insulated in other ways, including managing its own budget, staffing decisions and building security.

Cook's lawyer acknowledged that "for cause" is a vague term that is subject to interpretation but asserted during Friday's hearing that the president had not provided adequate evidence for invoking those powers.

"We're arguing that it's very difficult to come up with an 11-page definition of what it is," Lowell began, "but it's not hard to come up with a one-sentence definition of what it's not."

"And what it's not is the FHFA director sending out a missive to the world saying, 'Maybe, I think, potentially, it seems like, it appears that maybe Gov. Cook did something wrong,' and the president says, 'That's all,'" he said.

The goal of the hearing for Lowell was to make sure that Cook would be able to retain her role as a governor as the case was litigated.

"She should not be taken out of her office," he said. "She shouldn't be disconnected from her electronics. She should be able to participate in the meetings. She should do all the things that she did a week ago before all this started, because that is the status quo."

As a governor, Cook casts a vote at every meeting on interest rates as well as on other major policy decisions.

The next gathering on interest rates is scheduled for mid-September. In her lawsuit filed Thursday, she also sued the board and Jerome Powell, the Fed chair, to prevent them from executing Trump's order to remove her.

Her lawyers argued that Trump's actions were "unprecedented and illegal" and warned that if the president were allowed to proceed with her removal, the independence of the institution would be jeopardized.

Cobb appeared amenable to the idea that the Fed operated as a unique independent agency, whose decisions on interest rates have far-reaching consequences for the economy and the global financial system.

"I keep going back to what everyone has agreed is the nature of this board and the need for independence and how that maps onto all of these questions," she said during an exchange with Roth.

The Fed's litigator weighed in only once during Friday's hearing to stipulate that the central bank would not offer arguments to support Cook's lawsuit. Instead, the Fed said in a filing that it sought a "prompt ruling" in the case and would follow the court's orders.