

How Trump Is Wrecking the Agency That Protects Workers' Labor Rights

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In his first term, Trump's NLRB issued bad decisions. In his second, it's being dismantled.



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A great riddle of the 2024 election is how Donald Trump managed to double ([to 14 points](#)) his advantage among working-class voters, defined as those lacking a college degree, compared to 2016. This is a mystery because Trump spent much of his first term [undermining labor rights](#). The main (though by no means only) vehicle for doing so was the Trump-appointed majority on the National Labor Relations Board, which adjudicates labor-management disputes.

[Among other anti-worker rulings](#), the Trump NLRB effectively [scuttled a legal challenge](#) that the Obama NLRB's general counsel had initiated holding McDonald's liable for labor-law violations committed by its franchisees; permitted management to require as a

condition of employment that workers [give up their right to sue the company](#); empowered management to [slow down union elections](#), a common tactic to undermine organizing drives; and [denied workers](#) the right to use work email to communicate about workplace issues.

Despite all this, Trump in 2024 expanded his share of the very working-class voters he worked so hard to undermine, from [51 percent](#) in 2016 to [56 percent](#). Trump even bumped up his share of union-household votes, from [42 percent](#) in 2016 to [45 percent](#), reducing the Democratic advantage from nine percentage points to eight. It was hard not to conclude that America's working class, which had been dying in shocking numbers from what the economists Ann Case and Angus Deaton called "[deaths of despair](#)," was [committing economic suicide, as well](#).

Fentanyl-related deaths [began to decline](#) around 2022 and [continue to do so](#), raising some hope that the working class will cease committing self-harm at the ballot box. Early signs are trickling in that this is [starting to happen](#). Trump's even beginning to falter with [white working-class voters](#), who until now had been his most stalwart supporters. So perhaps the proles will now pay more attention to the havoc Trump II is wreaking at the NLRB.

The main Trump plan this time out has been to put the NLRB on ice by denying it a quorum. That was achieved by [firing NLRB Board Chair Gwynn Wilcox](#), a Democratic appointee, a few days after Trump's inauguration. No reason was stated for the firing, making it plainly illegal under the 1935 [National Labor Relations Act](#) ("Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause"). Wilcox [sued](#). A district court judge [reinstated her](#), but then the D.C. Court of Appeals issued an [emergency stay](#) of that decision, the "emergency" in this case apparently being that the NLRB might resume operations with a lawfully appointed board member. On further "en banc" consideration, however, the appeals court concluded the firing really did violate the law, and so [reinstated](#) Wilcox.

That prompted the Supreme Court to execute the final chess move, [blocking Wilcox's reinstatement](#) on the grounds that the high court intended to overturn the 1935 precedent upholding Wilcox's job protection ([Humphrey's Executor](#)) but just hadn't got around to it yet. (They're very busy people!) The vehicle for *Humphrey's Executor's* execution won't be Wilcox's case (to which the Supreme Court denied cert) but rather a separate case about Trump's firing Democratic Federal Trade Commissioner Rebecca Kelly Slaughter.

The high court heard [Trump v. Slaughter arguments](#) in December. Considering that it previously broadcast to the world that Trump would win, why haven't we seen a decision? Because the reactionary majority has to concoct some plausible-sounding reason to dismantle *Humphrey's Executor* for the NLRB, the Federal Trade Commission, and all the other independent agencies it doesn't take seriously enough to care whether Trump fouls them up—but to keep *Humphrey's Executor* for the one independent agency the Republican majority *does* take seriously, which is the Federal Reserve. If Trump fouls the Fed up, that will screw up their retirement accounts! But you can't say that in a legal opinion, so they're struggling to come up with something that sounds better.

In denying the NLRB a quorum, Trump denied Wilcox the opportunity to preside over a Democratic NLRB majority until Trump got around to filling its two vacancies—three after Wilcox's ouster. (Presidents must reserve two of the five NLRB board positions for the opposing party, and by law all five board members serve fixed terms.) Putting the NLRB on ice also denied parties the chance to appeal to the full board in Washington any adverse decision handed down by a regional NLRB administrative law judge. That had the effect of leaving many ALJ decisions in limbo, management's second-favorite destination for unfair labor practice challenges. And of course, firing Wilcox demoralized the bureaucrats, fulfilling White House budget chief [Russell Vought](#)'s pathological desire to "put them in trauma."

But this strategy was only half-smart, because the absence of a functioning full board in Washington meant that pro-labor Biden-era precedents (many of which overturned pro-management NLRB precedents set during Trump's first term) would remain in place. Regional administrative law judges are required to follow existing precedents, and until Trump reinstated a Washington quorum these were Biden precedents. That was true for federal courts too, which treat NLRB rulings as case law. Vought's (and Elon Musk's) mayhem strategy was similarly self-defeating at other regulatory agencies, the only difference being that instead of not being able to overturn Biden precedents, these agencies were slowed down in their efforts to throw out Biden regulations. (See my ["Trump's Incompetence Is Botching His Own Deregulation Spree,"](#) February 2025.)

Trump kept up his no-NLRB-quorum strategy until mid-December 2025, when the term of Republican John Ring expired. The president took that occasion to nominate a Republican, James Murphy, to replace Ring and to nominate a second Republican, Scott Mayer, to fill one of the board's three remaining vacancies. Once [confirmed by the Senate](#) on December 11, Mayer and Murphy joined the sole remaining NLRB board member, the Democrat David Prouty, giving the NLRB a three-person quorum until

Prouty's term expires this August. To keep the Republican-majority NLRB going after that, Trump has nominated the Republican James Macy to fill one of two current vacancies, and—because Senate Democrats would try to block Macy's confirmation if Trump didn't pair him with a Democrat—to renominate Prouty to another term. Wilcox's seat, which would have to go to a Democrat, isn't likely to be filled anytime soon.

Strangely, not much has happened at the NLRB since Murphy and Mayer restored the NLRB's quorum with a new Republican majority. That's because a genteel NLRB tradition dictates that you don't overturn major precedents by fewer than three votes, and the new members are honoring it. For example, the NLRB passed up the chance to overturn a 2023 decision by the Biden NLRB restricting management's imposition of confidentiality and non-disparagement clauses on severance agreements. Such clauses were shown, in the sexual harassment scandals that gave rise to the #MeToo movement a decade ago, to hush up sexual harassment settlements and thereby limit accountability for, for example, Fox News, where for decades Roger Ailes [created a hostile work environment](#) that nobody knew about.

Once the Senate confirms Macy and re-confirms Prouty, however—probably in the next couple of months—the NLRB's three Republicans will start dismantling Biden precedents. Does that mean the working class will be left unmolested by the Republican NLRB until then? Not according to [a letter](#) that Democratic Representatives Bobby Scott and Mark DeSaulnier, ranking members on, respectively, the House Education and Workforce Committee and its Subcommittee on Health, Employment, Labor, and Pensions, sent this morning to NLRB General Counsel Crystal Carey.

The letter concerns an appalling case backlog that's built up as a result of budget-driven staff cuts. This isn't a new problem, but Trump made it worse. The NLRB budget stood at [\\$302 million](#) when Trump reentered office, down from [\\$408 million](#) (corrected for inflation) as recently as 2011; now it's [\\$294 million](#), and the Trump administration is asking Congress for only [\\$285 million](#) next year. In 2011, the agency had [1,733 employees](#); by 2024 it had [1,233](#). In the 18 months since Trump's second inauguration, that's fallen to [1,151](#). There are high school graduating classes bigger than that. In February, Bloomberg Law's Robert Lafolla reported that NLRB field operations [would require 23 percent more staff](#) to handle their caseload, and in March Lafolla reported that 10,000 cases had been [pending review](#) for more than six months.

Last month the NLRB [announced](#) that it would address this problem by taking 3,500 of these cases and transferring them to other, less-burdened regional offices. But as Scott and DeSaulnier point out, that will only introduce new inefficiencies:

For instance, under this Initiative, regional staff will have to transfer a select case and notify the affected parties. Then, if the transferred [unfair labor practice] case is found to have merit by staff in a different regional office, the case will have to return to the originating region for in-person proceedings before an Administrative Law Judge (ALJ) as there is no remote option. Additionally, staff in the originating region will have to learn the facts of this case to argue before an ALJ, duplicating the work conducted by the regional staff that initially found merit.

Why, faced with a huge backlog, would the NLRB double the number of work hours necessary to advance these cases? Because the efficiency the NLRB is looking for isn't to process cases more quickly; it's to *dismiss* cases more quickly. Where once only one region got a shot at vetoing any given unfair labor practice claim, now two regions get that shot. Also, shifting a case from one region to another makes on-site visits and in-person interviews unlikely. The less NLRB regional employees know about an unfair labor practice claim, the likelier they are to say the hell with it.

NLRB case backlogs are up under Trump—and union elections are down. [According to](#) the nonprofit Center for American Progress, the number of NLRB-supervised elections fell 30 percent during Trump's first year in office. Staff shortages may play some role, but the drop-off is too big for that to explain it. More likely, union organizers know the NLRB is less keen to certify their union, so why bother? They wouldn't be wrong. In 2023, a union's likelihood of winning an NLRB-supervised election was 72 percent, up from 65 percent during Trump's last year in office. Now it's fallen to 70 percent.

The only comfort we can draw from Trump's assault on the NLRB is the possibility that it will make working-class voters more aware that Trump is not their champion, and never was. Over the next couple of years, though, they'll pay a heavy price at the NLRB for that misapprehension.