

## Judge Again Dubious of Ex-Copyright Chief Bid to Regain Post (1)

By Kyle Jahner 2025-07-23T16:54:10000-04:00

A federal judge on Wednesday appeared unlikely to grant a preliminary injunction restoring Shira Perlmutter to her post as register of copyrights during her lawsuit alleging President Donald Trump fired her illegally.

Judge Timothy J. Kelly, a Trump appointee, pushed back on Perlmutter's attorney's argument that the firing was illegal significantly harder than the administration's defense of Trump's actions during a hearing at the US District Court for the District of Columbia. He appeared dubious of Perlmutter's effort to satisfy the irreparable harm factor demonstrating damage to her personally rather than to the institution.

Kelly didn't rule from the bench, and the hearing ended after a spirited back-and-forth over the separation-of-powers implications of such a high bar for an injunction. "I do think that it's a tricky case," Kelly said after Perlmutter's attorney's rebuttal to the judge's criticism of his argument. "I will get you an answer as soon as I can."

The case echoes other disputes over Trump's efforts to remake the government, but sits at a unique position as the first lawsuit over leaders of a nominally legislative entity. The Library of Congress has been found to have executive functions by courts, but the "[hydra of an agency](#)" also provides Congress with research and other services.

Trump fired Perlmutter from her post on May 10, two days after dismissing her superior, Librarian of Congress Carla Hayden. Perlmutter [sued two weeks later](#), arguing her firing and Trump's appointment of Todd Blanche, a deputy attorney general and Trump's former defense attorney, as librarian were "[sweeping](#)" and illegal power-grabs.

Kelly [denied](#) Perlmutter's bid for a temporary restraining order, finding she wouldn't suffer irreparable harm by not being reinstated during the suit and that harm to the Copyright Office didn't apply to her personally. Perlmutter then moved for a preliminary injunction seeking the same relief.

Perlmutter's attorney, Brian D. Netter of the Democracy Forward Foundation, said the administration hadn't articulated a way that any victim of a blatantly illegal firing could secure an injunction if personal irreparable harm is required. Under the administration's argument, a president could remove the Senate parliamentarian "or you, your honor" for the duration of litigation, he said.

"I don't think that's true at all," Kelly responded. If a president plainly intrudes on other branches, the judge said, the institution would be before him to vindicate its rights.

That would be a "clash of branches, not the clash between the executive and an individual," he said.

Netter fired back, arguing that changed the hypothetical and assumes the other branch "is going to decide it's within its broader political interest to stage a fight." The Senate may or may not sue, Netter said, adding he didn't know who would sue on behalf of a court.

If "there's nothing the courts can or will do, because 'maybe she can get a paycheck at the end of the day,' that's fundamentally disruptive," he said. "It gives the executive branch incentive to act incorrectly."

Perlmutter's complaint argued the Library is distinct from executive agencies to which presidents can appoint acting chiefs, and called Blanche's appointment the "executive branch's unlawful seizure of the Library of Congress." But the administration [argued](#) the agency falls under the Federal Vacancies Reform Act and, even if it doesn't, Trump has a constitutional right to appoint an acting librarian.

Justice Department attorney Benjamin Hayes said Kelly's analysis in denying the TRO was correct and still applies. Institutional harm claimed by Perlmutter was entirely speculative and doesn't apply to her personally, he argued.

Kelly noted that many of the legislative functions of the Library of Congress cited by Perlmutter, such as the Congressional Research Service advising lawmakers, are "not part of her job."

Hayes said the vacancies law and US Constitution give Trump authority to fill the librarian vacancy temporarily to keep the government operating. He denied that the administration thinks it can remove any subordinate officer at any time, but said it can when there's a "breakdown in the chain of command" such as a vacancy in the office that appoints the register.

Hayes also said cases where courts have intervened in comparable situations involved imminent fundamental change to an institution, and argued Perlmutter didn't allege any specific harm or timeline.

But Netter said the firing happened at a critical time when Perlmutter was reporting to Congress about an important issue—the [application of copyright law to AI](#). He noted the White House on Wednesday [issued an AI action plan](#), making Perlmutter's statutory duty to provide expert advice to Congress "perhaps as important as ever."

But the law doesn't assign that role to Perlmutter, Kelly said. "That's assigned to the office."

Democracy Forward Foundation and Munger, Tolles & Olson LLP represent Perlmutter. The Justice Department represents Trump and other defendants.

The case is Perlmutter v. Blanche, D.D.C., No. 1:25-cv-01659, Hearing 7/23/25 .

(Updates throughout with additional information from hearing.)

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