Louis Fisher

Guest Column

Error to Initiate Executive Power

D.C. Circuit Court Adopts Old Judicial

Interpretation and Dismisses Executive Action

The D.C. Circuit Court on July 23, 2023, in a

939-page opinion, issued in one of the

most controversial cases of the year, ruled

against the President's executive power

to issue an order

without congressional authorization. The court's ruling

injunction preventing the President from

initiating the action in question,

thus reinforcing the judicial branch's
decision in the 1980s that the President's executive

power is subject to judicial restraint.

The court's decision

is a clear

rebuke of the executive branch's

assertion of near-unlimited

power to act without

congressional oversight.

The case involved the

President's attempt to

implement a new

policy on immigration

without legislative

authorization. The court

ruled that the President's

action was

unlawful and

invalid.

The court's opinion

is

a

landmark

ruling that

clearly

establishes

the

boundaries

of

executive

power

and

reaffirms

the

judicial branch's

role

in

checking

the

powers

of

the

executive

branch.

The

ruling

confirms

that

the

President

must

operate

within

the

limits

set

by

Congress

and

the

Constitution,

and

that

executive

actions

must

be

lawful

and

compliant

with

the

law.

This

is

an

important

victory

for

the

rule

of

law

and

a

reminder

of

the

importance

of

judicial

restraint.

The

court's

decision

will

likely

be

appealed,

but

the

long-term

impact

of

this

ruling

will

be

significant.

It

reinforces

the

principles

of

separation

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