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Lawyers Defending American Democracy Files Amicus Brief Defending Federal Civil Service Protections in Maurene Comey Case

BOSTON, MA – Lawyers Defending American Democracy (LDAD) has filed an [amicus brief](#) in support of former federal prosecutor Maurene Comey, urging the U.S. District Court to reject the government’s attempt to block judicial review of her termination.

Ms. Comey, a career prosecutor in the Southern District of New York with an exemplary professional record, was terminated without notice in July 2025. The government did not identify any performance deficiencies or misconduct, stating instead that her firing was justified by “Article II of the Constitution.”

“The government’s position amounts to a claim that the President may disregard the civil service protections Congress enacted for career federal employees,” said **Mitt Regan**, an LDAD Board member and McDevitt Professor of Jurisprudence at Georgetown University Law Center who oversaw the preparation of the brief. “If accepted, that theory would eviscerate the civil service system and eliminate meaningful safeguards against political retaliation.”

A Direct Challenge to the Civil Service System

As a federal employee covered by the civil service system, Ms. Comey could be terminated only “for such cause as will promote the efficiency of the service,” such as poor performance or misconduct. Her complaint alleges that she was fired “solely or substantially” because of her family relationship to James B. Comey (the former FBI Director is her father), her perceived political affiliation, or both.

Rather than defending the termination on the merits, the government argues that Ms. Comey cannot bring her constitutional challenge in federal court and must instead seek relief from the Merit Systems Protection Board (MSPB)—even though the MSPB itself was created by the very civil service statute the government claims is unconstitutional.

“This is an extraordinary argument,” said University of Minnesota Law School Professor **Nick Bednar**, a principal author of the brief. “The government cannot claim the civil service system is unconstitutional while simultaneously insisting that an agency created by that system is the only place a fired employee may turn.”

The district court requested briefing solely on this threshold jurisdictional question.

Why the Court Must Decide This Question

LDAD’s amicus brief explains that Congress did not intend for the MSPB to adjudicate challenges to the constitutionality of its own existence. Drawing on the legislative history of the Civil Service Reform Act,

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the brief demonstrates that Congress limited the MSPB's jurisdiction to reviewing adverse personnel actions under civil service law—not deciding whether those laws violate the Constitution.

“Congress designed the MSPB to apply the civil service laws, not to rule on whether those laws are valid,” noted Professor Regan. “Constitutional challenges of this magnitude belong in federal court.”

Broader Implications for the Rule of Law

“This case goes well beyond one individual,” stated **Lynn Armentrout**, also a principal author of the brief and a volunteer with Lawyers Defending American Democracy. “The government’s theory dismantles protections that have long ensured a professional, nonpartisan federal workforce—and that should concern anyone who values the rule of law.”

Other contributors to this brief included LDAD volunteer **Grace Carter**, Esq., and Georgetown law students **Sydney Martens** and **Maddy Menard**.

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Lawyers Defending American Democracy (LDAD) was founded in 2019 and is a 501(c)(3) organization dedicated to the protection of the rule of law, the Constitution, and democracy. LDAD’s work includes authoring Calls-to-Action, amicus briefs, and articles calling for adherence to the rule of law and encouraging the legal profession and the public to join in speaking out against threats to the norms, freedoms, and principles of our democratic institutions. LDAD’s most recent initiative is Meeting the Moment, a call to lawyers across the country to engage with their communities in response to the attacks on our democratic institutions. For further information about LDAD, see <https://ldad.org/>