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Prof. Leiter-White

POSC 326

04/21/25

Morrison v. Olson  
487 U.S. 654 (1988)

## Parties

*Petitioners:* Alexia Morrison, Independent Counsel

*Respondents:* Theodore B. Olson, Assistant Attorney General for the Office of Legal Counsel

## Procedure

The case was originally heard by the United States Court of Appeals for the District of Columbia Circuit. Upon their review, the court had concluded that parts of the Ethics in Government Act were to be considered unconstitutional. Upon receiving the result, an appeal was filed, and the case went before the U.S. Supreme Court. The court focused its review on whether or not the appointment of independent counsel in any way violated the constitutional powers, specifically the concept of separation of powers.

## Issue

The Ethics in Government Act currently allows for the creation of an independent legal counsel and keeps the President from putting any sort of limits on the existence of any such counsel. Does this violate the idea of separation of powers?

## Facts

In 1978, under the current iteration of the Ethics in Government Act, the Attorney General appointed Alexia Morrison to lead a special counsel in an effort to investigate Theodore Olson concerning his then-recent testimony before Congress. Olson contended that the creation of such a counsel was not only un-warranted, but unconstitutional, and he contested doing such a thing violated the very principal separation of powers.

## Rule

As it currently stands, the Constitution allows for Congress to create a temporary position of independent counsel to review governmental matters, while giving the President no direct control over the counsel or their action, particularly inferior officers.

### Analysis/Application

Upon review, the U.S. Supreme Court concluded that an independent counsel be categorized as an “inferior officer” on the basis that they theoretically served limited duties, held limited powers, and only were promised temporary tenure. While the court acknowledged that independent counsels operate with some amount of freedom, their existence did not violate the separation of powers due to the Executive branch maintaining some level of “sufficient” control in the process.

### Holding

In this case, the court ruled the Ethics in Government Act’s independent counsel provisions did not violate the concept of separation of powers.

### Judgement

Upon concluding their review, the U.S. Supreme Court made the motion to both reverse and remand the lower court’s judgement. In the end, the court upheld the constitutionality of the independent counsel provisions.

### Policy (Optional)

Through their ruling, the U.S. Supreme Court emphasized the importance of maintaining balance between executive power and accountability. They also contested that a strictly-unitary executive had the potential to undermine the investigation and prosecution of misconduct committed by highly-respected officials.

### Dicta (Optional)

The U.S. Supreme Court empathized that despite the separation of powers being an integral principle within our government, it does not warrant complete insulation from any form of oversight or influence by other branches or counsels.