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Court Rules Obama Recess Appointments Unconstitutional

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A federal appeals court on Friday ruled that President Barack Obama violated the Constitution when he bypassed the Senate to fill vacancies on the National Labor Relations Board.

The three-judge panel said that as a result, the labor-relations board has lacked the quorum it needs to conduct much of its business.

The court's decision could also have implications for Richard Cordray, the head of the Consumer Financial Protection Bureau. President Barack Obama also used a recess appointment to name him to his position after Republicans blocked his nomination from coming to a vote.

The challenge to the appointments was made in a lawsuit filed against the NLRB by soda bottler and distributor Noel Canning. The company claimed that, among other things, a board ruling against it in a union dispute last year year was moot because Mr. Obama didn't seek Senate approval for three members he appointed to the board during recess. The company contended that those members were invalid, so the board, which has five slots, lacked the necessary quorum needed to issue the ruling.

The court ruled Friday that, because it agreed that the appointments were constitutionally invalid and the board therefore lacked a quorum, it also vacated the board's order against Noel Canning.

The NLRB didn't have an immediate comment on the decision.

The outcome of the case rode on whether the Senate was in recess when Mr. Obama made the appointments during a holiday break.

On Jan. 4, 2012, Mr. Obama appointed Democratic union lawyer Richard Griffin, Democratic Labor Department official Sharon Block and Republican NLRB lawyer Terence Flynn. Mr. Flynn stepped down from the board later in the year.

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