NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

DALTON, SECRETARY OF THE NAVY, ET AL. *v.* SPECTER ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 93–289. Argued March 2, 1994—Decided May 23, 1994

Respondents filed this action under the Administrative Procedure Act (APA) and the Defense Base Closure and Realignment Act of 1990 (1990 Act), seeking to enjoin the Secretary of Defense (Secretary) from carrying out the President's decision, pursuant to the 1990 Act, to close the Philadelphia Naval Shipyard. The District Court dismissed the complaint on the alternative grounds that the 1990 Act itself precluded judicial review and that the political question doctrine foreclosed judicial intervention. In affirming in part and reversing in part, the Court of Appeals held that judicial review of the closure decision was available to ensure that the Secretary and the Defense Base Closure and Realignment Commission (Commission), as participants in the selection process, had complied with the procedural mandates specified by Congress. The court also ruled that this Court's recent decision in *Franklin* v. *Massachusetts,* 505 U. S. ___, did not affect the reviewability of respondents' procedural claims because adjudging the President's actions for compliance with the 1990 Act was a form of constitutional review sanctioned by *Franklin.*

Held: Judicial review is not available for respondents' claims. Pp. 6–15.

(a) A straightforward application of *Franklin* demonstrates that respondents' claims are not reviewable under the APA. The actions of the Secretary and the Commission are not reviewable ``final agency actions'' within the meaning of the APA, since their reports recommending base closings carry no direct consequences. See 505 U. S., at ___. Rather, the action that ``will directly affect'' bases, *id.,* at ___, is taken by the President

when he submits his certificate of approval of the recommendations to Congress. That the President cannot pick and choose among bases, and must accept or reject the Commission's closure package in its entirety, is immaterial; it is nonetheless the President, not the Commission, who takes the final action that affects the military installations. See *id.,* at ___. The President's own actions, in turn, are not reviewable under the APA because he is not an ``agency'' under that Act. See *id.,* at ___. Pp. 6–9.

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(b) The Court of Appeals erred in ruling that the President's base closure decisions are reviewable for constitutionality. Every action by the President, or by another elected official, in excess of his statutory authority is not *ipso facto* in violation of the Constitution, as the Court of Appeals seemed to believe. On the contrary, this Court's decisions have often distinguished between claims of constitutional violations and claims that an official has acted in excess of his statutory authority. See, *e.g., Larson* v. *Domestic & Foreign Commerce Corp.,* 337 U. S. 682, 691, n. 11; *Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U. S. 579, 585, 587, distinguished. Such decisions demonstrate that the claim at issue here—that the President violated the 1990 Act's terms by accepting flawed recommendations—is not a ``constitutional'' claim subject to judicial review under the exception recognized in *Franklin,* but is simply a statutory claim. The 1990 Act does not limit the President's discretion in approving or disapproving the Commission's recommendations, require him to determine whether the Secretary or Commission committed procedural violations in making recommendations, prohibit him from approving recommendations that are procedurally flawed, or, indeed, prevent him from approving or disapproving recommendations for whatever reason he sees fit. Where, as here, a statute commits decisionmaking to the President's discretion, judicial review of his decision is not available. See, *e.g., Chicago & Southern Air Lines, Inc.* v. *Waterman S. S. Corp.,* 333 U. S. 103, 113–114. Pp. 9–14.

(c) Contrary to respondents' contention, failure to allow judicial review here does not result in the virtual repudiation of *Marbury* v. *Madison,* 1 Cranch 137, and nearly two centuries of constitutional adjudication. The judicial power conferred by Article III is upheld just as surely by withholding judicial relief where Congress has permissibly foreclosed it, as it is by granting such relief where authorized by the Constitution or by statute. P. 15.

995 F. 2d 404, reversed.

REHNQUIST, C. J., delivered the opinion of the Court, in which O'CONNOR, SCALIA, KENNEDY, and THOMAS, JJ., joined, and in Part II of which BLACKMUN, STEVENS, SOUTER, and GINSBURG, JJ., also joined. BLACKMUN, J., filed an opinion concurring in part and concurring in the judgment. SOUTER, J., filed an opinion concurring in part and concurring in the judgment, in which BLACKMUN, STEVENS, and GINSBURG, JJ., joined.