

The Virgin Islands Consortium

Supreme Court Weighs Trump-Era Challenge to Birthright Citizenship and Judicial Authority

In a pivotal case with sweeping implications, the Supreme Court heard arguments on the 14th Amendment's Citizenship Clause and whether federal judges can block executive orders nationwide, a decision that could reshape immigration and judicial power.

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The U.S. Supreme Court on Thursday grappled with a high-stakes challenge to the Trump administration's executive order on birthright citizenship in a set of consolidated cases: *Trump v. CASA*, *Trump v. Washington*, and *Trump v. New Jersey*. At the heart of the dispute is the interpretation of the 14th Amendment's Citizenship Clause and the contentious issue of whether federal district judges can issue nationwide injunctions to

block executive policies. While no ruling has been issued, a decision is expected in the coming months, potentially reshaping immigration policy and the scope of judicial authority.

The primary issue before the Court stems from an executive order by the Trump administration that seeks to limit birthright citizenship, particularly for children born in the United States to undocumented immigrants. The 14th Amendment states, “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States.” The administration argues that children of undocumented immigrants are not “subject to the jurisdiction” of the U.S., challenging the longstanding precedent set by *United States v. Wong Kim Ark* (1898), which affirmed automatic citizenship for children born on U.S. soil to non-citizen parents.

During oral arguments on May 15, 2025, Solicitor General John Sauer, representing the administration, pressed this interpretation, contending that the executive has the authority to redefine the scope of birthright citizenship through policy. However, the Court’s liberal justices—likely Justices Sonia Sotomayor, Elena Kagan, and Ketanji Brown Jackson—pushed back, signaling that they view birthright citizenship as settled law under *Wong Kim Ark*. Justice Amy Coney Barrett also appeared cautious, questioning whether the Court should even address the constitutional issue at this stage, given the procedural focus of the case.

The conservative justices, including Neil Gorsuch, Clarence Thomas, and Samuel Alito, showed some openness to the administration’s arguments, though their questions suggested a preference for addressing the narrower issue of judicial injunctions rather than issuing a sweeping ruling on citizenship. Chief Justice John Roberts, known for his incrementalist approach, is likely to steer the Court toward a limited decision that avoids upending decades of precedent on the 14th Amendment.

A ruling is not expected until late spring or early summer 2025, with June being the typical timeframe for the Court to release decisions from its current term. The outcome could have profound implications for millions of U.S.-born children of immigrants and set a precedent for future immigration policies. However, the Court may choose to sidestep the citizenship question entirely, focusing instead on the procedural issue of nationwide injunctions, leaving the broader debate for another day.

The second major issue in these cases is whether federal district judges have the authority to issue nationwide injunctions—court orders that block a policy across the entire country, not just for the specific plaintiffs or jurisdictions involved. The Trump administration argues that such injunctions exceed judicial power, disrupt executive authority, and create inconsistent policy implementation. These cases arose after lower courts issued universal injunctions to halt the administration’s birthright citizenship policy, prompting the Supreme Court to review both the injunctions and the underlying policy.

Solicitor General Sauer argued that nationwide injunctions are a relatively recent phenomenon, unsupported by historical judicial practice or Article III of the Constitution, which defines the scope of federal judicial power. Justices Gorsuch, Thomas, and Alito appeared sympathetic to this view, with Gorsuch in particular questioning the propriety of

a single district judge halting a national policy.

Conversely, Justices Kagan and Barrett expressed skepticism about the administration's focus on injunctions, suggesting it might be a strategic move to indirectly challenge birthright citizenship. Kagan emphasized that the Court should address the procedural issue without wading into the constitutional question, while Barrett questioned whether the administration's arguments were more about policy disagreement than judicial overreach. The liberal justices underscored the importance of injunctions in protecting vulnerable populations, such as immigrant communities, from potentially unlawful executive actions.

Chief Justice Roberts is likely to play a pivotal role in crafting a compromise. He may favor a ruling that upholds the lower courts' injunctions for specific plaintiffs—such as the immigrant advocacy groups and states involved in these cases—while restricting the use of nationwide injunctions in future cases. Such a decision would preserve the status quo on birthright citizenship for now while curbing the judiciary's ability to issue broad, universal remedies.

The Supreme Court's ruling, expected by June 2025, could take several forms:

- **Narrow Procedural Ruling:** The Court could focus solely on the issue of nationwide injunctions, limiting their use without addressing birthright citizenship. This would align with Roberts' preference for incrementalism and avoid a direct confrontation with the 14th Amendment.
- **Limited Substantive Ruling:** The Court might uphold the injunctions for the specific plaintiffs involved, affirming their right to birthright citizenship under current precedent, while restricting universal injunctions. This would delay a broader ruling on the administration's policy.
- **Broad Constitutional Ruling:** Less likely, the Court could tackle the birthright citizenship question head-on, either affirming *Wong Kim Ark* or adopting the administration's narrower interpretation of "subject to the jurisdiction." Such a decision would have seismic implications for immigration law and policy.

The debate over nationwide injunctions extends beyond this case, touching on the balance of power between the judiciary and the executive. Critics of universal injunctions argue that they allow individual judges to wield disproportionate influence, effectively legislating from the bench. Supporters, however, contend that such injunctions are necessary to prevent irreparable harm, particularly in cases involving civil rights or vulnerable populations.