

The Virgin Islands Consortium

Americans Born In U.S. Territories Have No Constitutional Right To Citizenship, Trump Administration Argues. Obama Admin. Made Similar Argument In 2014.

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The Trump administration is rejecting the original meaning of the Citizenship Clause to argue that Americans born in U.S. territories have no constitutional right to citizenship, according to a release Equally American, a non-profit founded in 2013 to advance equality and civil rights in U.S. territories, issued Monday.

The Trump administration's stance is selfsame with one taken by the Obama administration in 2014, [when it argued](#) that being a citizen of the United States of

America is not a fundamental right of people born in the U.S. Virgin Islands.

According to Equally American, Monday marked the 150th Anniversary of the Fourteenth Amendment, which constitutionalized America's common-law guarantee of birthright citizenship. Equally American added that the Citizenship Clause of the Fourteenth Amendment was adopted to overturn the Supreme Court's infamous *Dred Scott* decision and enshrine an individual right to citizenship by birth on U.S. soil not subject to legislative whims.

On Monday, a group of passport-holding, tax-paying Americans living in Utah who are denied recognition as citizens because they were born in American Samoa pushed back, filing a reply to the government's arguments in *Fitisemanu v. United States*, a federal lawsuit they recently filed in the U.S. District Court for the District of Utah, according to Equally American

Relying on the text, history, and purpose of the Fourteenth Amendment, the *Fitisemanu* plaintiffs reject the government's view that the question of citizenship by birth in American Samoa or other U.S. territories is left up to Congress rather than guaranteed by the Constitution. They also criticize the government's unwarranted reliance on the *Insular Cases*, a series of controversial early 1900s Supreme Court decisions grounded in discredited racial stereotypes.

"The Trump Administration's reliance on Supreme Court opinions that refer to the inhabitants of U.S. territories as 'savages' who are 'absolutely unfit to receive [citizenship]' as a basis to deny the Constitution's guarantee of birthright citizenship in U.S. territories today is astounding," said Neil Weare, president and founder of Equally American. "The government's view that citizenship in U.S. territories is a matter of legislative grace rather than an individual constitutional right simply cannot be squared with the text and history of Constitution's guarantee of birthright citizenship."

Equally American represents the plaintiffs in *Fitisemanu v. United States*, along with attorneys at Gibson, Dunn & Crutcher, LLP and American Samoan attorney Charles V. Ala'ilima

Fitisemanu has attracted significant interest from amicus parties:

- An ideologically diverse group of fifteen national experts on the foundations of citizenship in the United States [argue](#) that the text and history of the Citizenship Clause unequivocally supports recognition of birthright citizenship in states and territories alike.
- Leading constitutional law scholars from across the ideological spectrum [reject](#) any reliance on the *Insular Cases* to deny birthright citizenship in U.S. territories.
- The Samoan Federation of America [examines](#) decades of support for recognition of citizenship in American Samoa and addresses unsupported fears raised by current elected officials in American Samoa concerning citizenship.

According to the release, the American Samoa Government has sought to intervene in the case to oppose recognition of a constitutional right to citizenship based on [unsupported fears](#) that this could adversely impact the preservation of American Samoa land and culture. The present views of American Samoa's leaders are in stark contrast to

the [strong support](#) for citizenship expressed by American Samoa's leaders from 1900-1960. They also contrast with leaders from other U.S. territories, who filed briefs in an earlier case [arguing](#) in support of recognizing a constitutional right to citizenship in U.S. territories.

The United States has until August 6, 2018 to file its reply to Monday's filing by the *Fitisemanu* plaintiffs. A decision on intervention by American Samoa is pending.

More information about *Fitisemanu v. United States*, including court filings, can be found [here](#).

Additional quotes from *Fitisemanu* plaintiffs and counsel from when the complaint was filed in March 2018 can be found [here](#).