



Understanding *Trump v. CASA, Inc.* and the Birthright Citizenship Cases

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Background: The Executive Order Challenging Birthright Citizenship

The idea that individuals born in the United States become citizens at birth (birthright citizenship) under the Fourteenth Amendment to the United States Constitution is a longstanding and basic principle of American law.

On the first day of President Trump's second term in office, he issued Executive Order (EO) 14160, Protecting the Meaning and Value of American Citizenship. The primary aim of this EO is to restrict eligibility for birthright citizenship in the United States. Under Section 2 of the President's EO, children born in the United States 30 days or more after the EO was issued would no longer be recognized as U.S. citizens if born to a father who was not a U.S. citizen or lawful permanent resident (Green Card holder) and a mother who either was:

- Unlawfully present in the U.S. (e.g., she entered the United States without being inspected by an immigration officer, overstayed, or violated their immigration status); or
- In the U.S. lawfully but temporarily (e.g., she was a B-2 visitor for pleasure, F-1 student, or a temporary worker such as an H-1B professional).

In short order, the EO was challenged in court by a range of individuals, non-profit organizations, and states asking for a preliminary injunction until the court rules on the lawfulness of the EO. A preliminary injunction is a legal "pause" that prevents one party to a lawsuit from taking a specific action until the case is decided; in this instance, the injunction would prevent the EO from becoming effective while the lawsuit is ongoing.

When someone is harmed by an action of the federal government, they can sometimes sue the federal government in federal court. The first level of federal court review typically takes place in a district court. The next level typically occurs at a court of appeals. And, in certain instances, the final level of federal court review takes place at the Supreme Court. In this case, lawsuits were filed with district courts and elements of the case were quickly appealed up to the Supreme Court.

Three separate U.S. district courts quickly issued preliminary injunctions blocking the government from enforcing the EO against any individuals anywhere in the United States. The government appealed the "universal" effect of these preliminary injunctions directly



to the Supreme Court, arguing that the injunctions should apply only to the individuals or parties that brought the case and not to people who are not part of the lawsuit.

The Supreme Court's Decision

On June 27, 2025, the Supreme Court issued its decision in *Trump v. CASA, Inc.* The decision focused on the preliminary injunctions and not on the substance of the case itself.

The Supreme Court sent a clear message that courts generally are not permitted to block an EO nationwide. Instead, federal courts must be careful to prevent the EO from being enforced only against the people or groups who brought the case, meaning that a preliminary injunction should only apply to the individuals, people represented by non-profits, or states that filed the lawsuit.

The Court, however, left open two ways in which judges might issue injunctions that could benefit individuals other than the plaintiffs (the individuals who are suing).

One is a class action, in which a court allows one or more individuals to represent a larger group of people with similar concerns against the same defendant (the individual being sued). Although separate challenges and limitations apply to class actions, a preliminary injunction issued in a class action would generally protect the entire class until the case is decided (unless the preliminary injunction is overturned by a higher court or paused on appeal).

By way of illustration, in one well-known example of class actions that took place during the 1990s, individuals injured by tobacco products, states, and insurance companies sued tobacco companies on behalf of a range of other similarly situated members of their class. Ultimately, the tobacco companies agreed to pay billions of dollars to states who had sued on behalf of a class to recover medical costs that resulted from treating smoking-related diseases and medical issues.

Second, the Supreme Court recognized that when the plaintiff is a state (as opposed to an individual) it can be complicated to issue an injunction that only applies to that state. The state plaintiffs had argued that granting an injunction only to certain states (so that the individuals born in those states would still be citizens) would not adequately protect their interests, because they would face significant burdens under the EO in determining whether a child who moves into their state is eligible for public benefits that require U.S. citizenship.

For example, if a child born in Arizona moves to Maryland, it may be difficult for Maryland to determine whether the child is a U.S. citizen who qualifies for certain federal public benefits programs that the state runs (e.g., Medicaid). The Supreme Court refused to decide whether the states were right and instead instructed the lower court to evaluate



whether something short of blocking the EO across the country could adequately protect the interests of the state plaintiffs.

Citizenship is a matter of federal law under the Constitution, so it is hard to imagine a situation where someone born in one state would be a citizen, while someone born in another state would not.

Where We Are Now

The Supreme Court order in *Trump v. CASA, Inc.* meant that the EO was back on track, and federal agencies were authorized to develop public guidance to enforce the birthright citizenship limitations that could take effect starting July 27 (30 days after June 27). The Supreme Court said that if concerned parties wanted to challenge the EO in court, they would have to do so in a way that complied with its ruling in *Trump v. CASA*.

One court lost no time in taking next steps. On July 10, 2005, the U.S. District Court for the District of New Hampshire established a “class” of individuals, for purposes of a class action, who would be impacted by the birthright citizenship limitations in the EO. The court further granted a “classwide” preliminary injunction that, for the moment, once again prevents the EO’s birthright citizenship limitations from becoming effective nationwide.

More recently, on July 23, 2025, the U.S. Court of Appeals for the Ninth Circuit upheld a lower court’s nationwide preliminary injunction as necessary to fully address the harm to the states that were plaintiffs in that case. This decision likewise prevents the birthright citizenship limitations from taking effect anywhere in the United States. Significantly, the Ninth Circuit also directly addressed the lawfulness of the Executive Order, concluding that there is a strong likelihood that it is invalid because “it contradicts the plain language” of the Fourteenth Amendment of the Constitution. The government may choose to appeal this decision to the Supreme Court.

Looking ahead, we can expect that the Supreme Court will be asked to decide whether the EO’s limitations on birthright citizenship violate the Constitution or federal law. Until the Supreme Court hands down its decision, the basic question of whether the President can limit eligibility for U.S. citizenship at birth may remain unsettled.

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