



Federal Judge Upholds Trump Travel Ban Blocked by Other Courts

On March 24, Judge Anthony Trenga of the U.S. District Court for the Eastern District of Virginia upheld President Trump's revised March 6 executive order that banned foreign nationals from six countries identified as being state sponsors of terrorism or havens for terrorists.

Although Trenga's ruling contradicted those made by federal judges in Hawaii and Maryland earlier this month, Trump's order remains suspended.



In a reaction to the judge's ruling during a March 24 press briefing, White House Press Secretary Sean Spicer said:

We're pleased with this ruling, which found the plaintiffs have no likelihood of success on the merits of their claims. As the court correctly notes in its opinion, the President's order falls well within his legal authority to protect the nation's security. We're confident the President's fully lawful and necessary action will ultimately be allowed to move forward through the rest of the ... court system.

The executive order was originally scheduled to take effect on March 16, but only hours before then, Judge Derrick Watson, of the Federal District Court in Honolulu granted a temporary restraining order enjoining the Trump administration executive branch from enforcing or implementing two key sections of the order across the nation.

Then, also on March 16, U.S. District Judge Theodore Chuang in Maryland, while declining to block the executive order in its entirety, issued a nationwide injunction that enjoined (blocked) the Trump administration from enforcing "the travel ban for citizens of the six Designated Countries in Section 2(c) of the Second Executive Order."

Section 2(c) reads in part: "I hereby proclaim ... that the unrestricted entry into the United States of nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen would be detrimental to the interests of the United States. I therefore direct that the entry into the United States of nationals of those six countries be suspended for 90 days from the effective date of this order."

The judges in Hawaii and Maryland had based their rulings not so much on the language of the executive order, itself, as on some statement the president had made while still a presidential candidate. Furthermore, the judges asserted that the executive order amounted to religious discrimination against Muslims. Though all six nations covered by the order have Muslim majorities, Trump has denied that his order targets Muslims, specifically, but merely continues national security policies put in place by his predecessors.

After Trump's earlier January 27 executive order banning entry to the United States from seven Muslims-majority nations was halted by another judge in Seattle on the grounds that it amounted to



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religious discrimination, the president issued a reworded executive order on March 6. The second executive order reduced the number of nations affected to six and also dropped some language that had been included in the original travel ban order that made exceptions for religious minorities, including Christians and Alawites.

Despite these changes, both Watson and Chuang (who were both appointed by former president Obama) made numerous reference to Trump's alleged anti-Muslim bias in their respective decisions.

Watson wrote that a "reasonable, objective observer" would view even the new order as "issued with a purpose to disfavor a particular religion, in spite of its stated, religiously neutral purpose."

A report in the *Washington Post* observed that Chuang agreed with Watson's conclusions that the executive order had its roots in a Muslim ban proposed by Trump when he was still a presidential candidate.

Trenga disagreed, however. He ruled that, despite Trump's past statements, the changes made from the first executive order, notably removing specific references to religion, meant it was not unlawful. He wrote:

This court is no longer faced with a facially discriminatory order coupled with contemporaneous statements suggesting discriminatory intent. And while the president and his advisers have continued to make statements following the issuance of EO-1 [the first executive order] that have characterized or anticipated the nature of EO-2 [the revised ban] the court cannot conclude for the purposes of the motion that these statements, together with the president's past statements, have effectively disqualified him from exercising his lawful presidential authority.

CNN reported that Trenga's decision has limited practical effects at this point because the travel ban has already been frozen nationwide by the previous judge's decisions. But it is expected to strengthen the arguments that the administration will make in its appeals in federal appellate courts. It adds another judicial voice in support of the legality of the Trump executive order.

In reaction to Trenga's decision, Justice Department spokesperson Sarah Isgur Flores said: "As the court correctly explains, the President's executive order falls well within his authority to safeguard the nation's security."

The CNN report stated that the 4th U.S. Circuit Court of Appeals (which covers appeals from district courts in Maryland, Virginia, West Virginia, and the Carolinas) is set to hear the Justice Department's challenge to Chuang's decision in the Maryland court in May.

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