



Written by [Warren Mass](#) on January 16, 2019

Federal Judge Rules That Commerce Dept. Must Remove Citizenship Question From Census

On January 15, Judge Jesse Furman of the Southern District Court of New York vacated (stopped) Commerce Secretary Wilbur Ross's decision to add a citizenship question to the 2020 census questionnaire. Furman was ruling on a complaint filed against the Commerce Department by two plaintiffs: the State of New York and the New York Immigration Coalition, et al. Furman's ruling ran for 277 pages, indicating that he anticipates an appeal and sought to provide as much documentation as possible to substantiate his ruling if it is challenged before a higher court.

Furman ordered the Commerce Department to not include the citizenship question on 2020 census forms "without curing the legal defects" he identified in his decision.

The question, which has not appeared on the form in recent years, asks simply: "Is this person a citizen of the United States?"

NPR reported that Furman found that Ross's decision to add the citizenship question to the 2020 census was "unlawful" because of "a veritable smorgasbord of classic, clear-cut" violations of the Administrative Procedure Act, and alleged that Ross cherry-picked evidence to support his choice.

"To conclude otherwise and let Secretary Ross's decision stand would undermine the proposition — central to the rule of law — that ours is a 'government of laws, and not of men,'" Furman wrote, quoting John Adams.

Furman said that Ross "ignored and violated a clear statutory duty" to use existing government records about people's citizenship status as much as possible rather than using the census to ask a citizenship question. He also alleged that Ross, in another violation of the law, "announced his decision [to add the citizen question] in a manner that concealed its true basis rather than explaining it."

Ross had said the question, which has not appeared on the census form since 1950, was necessary to enforce federal laws protecting eligible voters, observed Reuters.

It is almost certain that the Trump administration will appeal Furman's decision, which could wind up before the Supreme Court this year. However, time is short since the Census Bureau must start printing census forms sometime this spring.

In his [article](#) about whether the Census should retain the citizenship question, written before Furman issued his ruling, John F. McManus notes: "But the larger question is whether non-citizens should be counted in the first place."

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