

1. Mark your confusion.
2. Show evidence of a close reading.
3. Write a 1+ page reflection.

## **Supreme Court Could Block Trump's Birthright Citizenship Order but Limit Nationwide Injunctions**

Source: Mark Sherman and Lindsay Whitehurst, Associated Press, May 15, 2025

WASHINGTON (AP) — The Supreme Court seemed intent Thursday on maintaining a block on President Donald Trump's restrictions on birthright citizenship while looking for a way to scale back nationwide court orders.

It was unclear what such a decision might look like, but a majority of the court expressed concerns about what would happen if the Trump administration were allowed, even temporarily, to deny citizenship to children born to people who are in the United States illegally.

The justices heard arguments in the Trump administration's emergency appeals over lower court orders that have kept the citizenship restrictions on hold across the country.

Nationwide injunctions have emerged as an important check on Trump's efforts to remake the government and a source of mounting frustration to the Republican president and his allies.

Judges have issued 40 nationwide injunctions since Trump began his second term in January, Solicitor General D. John Sauer told the court at the start of more than two hours of arguments.

Birthright citizenship is among several issues, many related to immigration, that the administration has asked the court to address on an emergency basis.

### **What judges have said about birthright citizenship**

The justices also are considering the Trump administration's pleas to end humanitarian parole for more than 500,000 people from Cuba, Haiti, Nicaragua and Venezuela and to strip other temporary legal protections from another 350,000 Venezuelans. The administration remains locked in legal battles over its efforts to swiftly deport people accused of being gang members to a prison in El Salvador under an 18th century wartime law called the Alien Enemies Act.

Trump signed an executive order on the first day of his second term that would deny citizenship to children who are born to people who are in the country illegally or temporarily.

The order conflicts with a Supreme Court decision from 1898 that held that the Citizenship Clause of the 14th Amendment made citizens of all children born on U.S. soil, with narrow exceptions that are not at issue in this case.

States, immigrants and rights group sued almost immediately, and lower courts quickly barred enforcement of the order while the lawsuits proceed.

The current fight is over the rules that apply while the lawsuits go forward.

The court's liberal justices seemed firmly in support of the lower court rulings that found the changes to citizenship that Trump wants to make would upset the settled understanding of birthright citizenship that has existed for more than 125 years.

Birthright citizenship is an odd case to use to scale back nationwide injunctions, Justice Elena Kagan said. "Every court has ruled against you," she told Sauer.

If the government wins on today's arguments, it could still enforce the order against people who haven't sued, Kagan said. "All of those individuals are going to win. And the ones who can't afford to go to court, they're the ones who are going to lose," she said.

Justice Ketanji Brown Jackson described the administration's approach as "catch me if you can," forcing everyone to file suit to get "the government to stop violating people's rights."

Several conservative justices who might be open to limiting nationwide injunctions also wanted to know the practical effects of such a decision as well as how quickly the court could reach a final decision on the Trump executive order.

Justice Brett Kavanaugh pressed Sauer with a series of questions about how the federal government might enforce Trump's order.

“What do hospitals do with a newborn? What do states do with a newborn?” he said.

Sauer said they wouldn’t necessarily do anything different, but the government might figure out ways to reject documentation with “the wrong designation of citizenship.”

Kavanaugh continued to push for clearer answers, pointing out that the executive order gave the government only about 30 days to develop a policy. “You think they can get it together in time?” he said.

The Trump administration, like the Biden administration before it, has complained that judges are overreaching by issuing orders that apply to everyone instead of just the parties before the court.

Picking up on that theme, Justice Samuel Alito said he meant no disrespect to the nation’s district judges when he opined that they sometimes suffer from an “occupational disease which is the disease of thinking that ‘I am right and I can do whatever I want.’”

But Justice Sonia Sotomayor was among several justices who raised the confusing patchwork of rules that would result if the court orders were narrowed and new restrictions on citizenship could temporarily take effect in more than half the country.

Some children might be “stateless,” Sotomayor said, because they’d be denied citizenship in the U.S. as well as the countries their parents fled to avoid persecution.

New Jersey Solicitor General Jeremy Feigenbaum, representing 22 states that sued, said citizenship could “turn on and off” for children crossing the Delaware River between Camden, New Jersey, where affected children would be citizens, and Philadelphia, where they wouldn’t be. Pennsylvania is not part of the lawsuit.

One possible solution for the court might be to find a way to replace nationwide injunctions with certification of a class action, a lawsuit in which individuals serve as representatives of a much larger group of similarly situated people.

Such a case could be filed and acted upon quickly and might even apply nationwide.

But under questioning from Justice Amy Coney Barrett and others, Sauer said the Trump administration could well oppose such a lawsuit or potentially try to slow down class actions.

Supreme Court arguments over emergency appeals are rare. The justices almost always deal with the underlying substance of a dispute.

But the administration didn’t ask the court to take on the larger issue now and, if the court sides with the administration over nationwide injunctions, it’s unclear how long inconsistent rules on citizenship would apply to children born in the United States.

A decision is expected by the end of June.

### **Possible Response Questions**

- What are your thoughts about Trump’s desire to limit birthright citizenship? Explain.
- Did something in the article surprise you? Discuss.
- Pick a word/line/passage from the article and respond to it.
- Discuss a “move” made by the writer in this piece that you think is good/interesting. Explain.