

Federal judge blocks Trump's executive order to end birthright citizenship

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In this 2021 photo, Deborah Boardman appears before the Senate Judiciary Committee hearing regarding her nomination to be a US District judge for the District of Maryland. Rod Lamkey/MediaPunch/Alamy

Greenbelt, Maryland (CNN) — A second federal judge on Wednesday blocked President Donald Trump's executive order that seeks to end birthright citizenship, saying it's likely unconstitutional and "runs counter to our nation's 250-year history of citizenship by birth."

The nationwide preliminary injunction from US District Judge Deborah Boardman is a significant ruling against Trump's Day 1 order, which was swiftly met with legal challenges and put on hold days later by a separate judge.

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The order “contrasts with the plain language of the 14th Amendment, contradicts 120-year-old binding Supreme Court precedent and runs counter to our nation’s 250-year history of citizenship by birth,” Boardman said during a hearing on Wednesday.

“No court in the country has ever endorsed the president’s interpretation,” she said. “This court will not be the first.”

The case at hand was brought in Maryland by five pregnant women whose babies could be impacted by Trump’s order and two immigrant-rights groups. Boardman, appointed by former President Joe Biden, said the injunction needed to apply nationwide in order to give the groups’ vast membership “complete relief.”

“The government will not be harmed by a preliminary injunction that prevents it from enforcing an executive order likely to be found unconstitutional,” she said.

The injunction, which Boardman said would last while the lawsuit against the order proceeds, is likely to be appealed by the administration to a Richmond-based federal appeals court, setting it on a path that could eventually land the case before the Supreme Court.

Several other challenges to the order are underway across the country, with judges in other states set to consider similar injunctions later this week. Legal experts have said that it’s likely that the matter will eventually reach the high court for review.

As Boardman read her ruling from the bench during Wednesday’s hearing, she said that “citizenship is a most precious right, expressly guaranteed by the 14th Amendment to the Constitution” and emphasized the “irreparable injury” Trump’s order would cause if it was allowed to take effect in coming weeks.

“Children subjected to the order will be denied the rights and benefit to US citizens and their parents will face instability and uncertainty about the citizenship status of their unborn babies,” she said.

An attorney for the order’s challengers told the judge that “the president’s executive order declares that everyone’s been getting it wrong” and urged her to block it.

“For well over a century, the 14th Amendment has been understood to guarantee citizenship to all persons born in the United States,” Joseph Mead said, noting that there have long been few exceptions to that understanding.

The parents covered by the order have lived in the US for decades, Mead told the judge.

“The order is not a temporary measure. It is a permanent measure. And it is a measure that is not in the best interests of the United States.”

“They are not temporary visitors. ... They have made America their home. And they are entitled to have their children subject to the same constitutional right that every other child in America has.”

Eric Hamilton, a lawyer representing the Trump administration, argued that the framers of the 14th Amendment did not intend to “create a loophole to be exploited” by temporary visitors or undocumented immigrants. He said that blocking the order would be premature since federal agencies have been unable to begin crafting specific policies around it after it was put on hold shortly after Trump signed it.

But the judge was unpersuaded, saying that the order was enough for her to assess the lawfulness of Trump’s efforts.

“Why do we need more than what is in the executive order to understand the policy?” she asked at one point.

Boardman’s ruling was quickly celebrated by the Asylum Seeker Advocacy Project, of the groups that sued over the order.

“Today, the court made the right decision to temporarily block the Birthright Citizenship Executive Order,” said Swapna Reddy, ASAP’s co-executive director. “The Executive Order has created chaos for so many families, including ASAP members, who are scared their children will not be able to live a life free of fear in the only country they will have ever known.”

Signed by Trump on January 20, the order, titled “PROTECTING THE MEANING AND VALUE OF AMERICAN CITIZENSHIP,” said that the federal government will not “issue documents recognizing United States citizenship” to any children born on American soil to parents who were in the country unlawfully or were in the states lawfully but temporarily.

The order said it would “apply only to persons who are born within the United States after 30 days from the date of this order.”

This story has been updated with additional details.

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