

16-1540 TRUMP V. HAWAII

DECISION BELOW: 2017 WL 2529640

LOWER COURT CASE NUMBER: 17-15589

QUESTION PRESENTED:

Application (16A1191) is treated as a petition for a writ of certiorari.

[Question Presented added from U.S. Brief for the Petitioners]

The Constitution and Acts of Congress confer on the President broad authority to prohibit or restrict the entry of aliens outside the United States when he deems it in the Nation's interest. Exercising that authority, the President issued Executive Order No. 13,780, 82 Fed. Reg. 13,209 (Mar. 9, 2017). Section 2(c) of that Order suspends for 90 days the entry of certain foreign nationals of six countries that Congress or the Executive previously designated as presenting heightened terrorism-related risks, pending a review of screening and vetting procedures to assess what information is needed from foreign governments. Section 6 (a) suspends for 120 days decisions on refugee applications and travel under the U.S. Refugee Admission Program for aliens from any country, pending a similar review of that program, and Section 6(b) reduces to 50,000 the maximum number of refugees who may be admitted in Fiscal Year 2017. The court of appeals in No. 16-1436 held that Section 2(c) likely violates the Establishment Clause and affirmed a preliminary injunction barring its enforcement against any person worldwide. The court of appeals in No. 16-1540 held that Sections 2(c), 6(a), and 6(b) likely exceed the President's authority under the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.*, and affirmed a preliminary injunction barring their enforcement against any person worldwide.

The questions presented are:

1. Whether respondents' challenges to Section 2(c)'s temporary entry suspension, Section 6 (a)'s temporary refugee suspension, and Section 6(b)'s refugee cap are justiciable.
2. Whether respondents' challenges to Section 2(c) became moot on June 14, 2017.
3. Whether Sections 2(c), 6(a), and 6(b) exceed the President's statutory authority under the INA.
4. Whether Sections 2(c), 6(a), and 6(b) violate the Establishment Clause.
5. Whether the global injunctions are impermissibly overbroad.

OPINION OF 6/26/2017:

CONSOLIDATED WITH 16-1536 FOR ARGUMENT.

IN ADDITION TO THE ISSUES IDENTIFIED IN THE PETITIONS, THE PARTIES ARE DIRECTED TO ADDRESS THE FOLLOWING QUESTION: "WHETHER THE CHALLENGES TO §2(c) BECAME MOOT ON JUNE 14, 2017."

ORDER OF AUGUST 24, 2017: FURTHER CONSIDERATION OF THE MOTION OF RESPONDENTS HAWAII, ET AL. TO ADD JOHN DOE AS A PARTY TO NO. 16-1540 IS DEFERRED TO THE HEARING OF THE CASE ON THE MERITS.

ORDER OF SEPTEMBER 25, 2017:

THE PARTIES ARE DIRECTED TO FILE LETTER BRIEFS ADDRESSING WHETHER, OR TO WHAT EXTENT, THE PROCLAMATION ISSUED ON SEPTEMBER 24, 2017, MAY RENDER CASES NO. 16-1436 AND 16-1540 MOOT. THE PARTIES SHOULD ALSO ADDRESS WHETHER, OR TO WHAT EXTENT, THE SCHEDULED EXPIRATION OF SECTIONS 6(a) AND 6(b) OF EXECUTIVE ORDER NO. 13780 MAY RENDER THOSE ASPECTS OF CASE NO. 16-1540 MOOT. THE BRIEFS, LIMITED TO 10 PAGES, ARE TO BE FILED SIMULTANEOUSLY WITH THE CLERK AND SERVED UPON OPPOSING COUNSEL ON OR BEFORE NOON, THURSDAY, OCTOBER 5, 2017. THE CASES ARE REMOVED FROM THE ORAL ARGUMENT CALENDAR, PENDING FURTHER ORDER OF THE COURT.

ORDER OF OCTOBER 24, 2017

... THE JUDGMENT IS THEREFORE VACATED, AND THE CASE IS REMANDED TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT WITH INSTRUCTIONS TO DISMISS AS MOOT THE CHALLENGE TO EXECUTIVE ORDER NO. 13,780.

CERT. GRANTED 6/26/2017