

Judge grants request to temporarily block Trump's birthright citizenship order

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A federal judge in Seattle on Thursday temporarily blocked President Donald Trump's executive order seeking to end birthright citizenship.

U.S. District Court Judge John Coughenour's ruling in a case brought by Washington, Oregon, Arizona and Illinois is the first in what is sure to be a long legal fight over the order's constitutionality.

Coughenour called the order "blatantly unconstitutional."

"I have difficulty understanding how a member of the bar could state unequivocally that this is a constitutional order," the judge told the Trump administration's attorney. "It boggles my mind."

Coughenour's decision came after 25 minutes of arguments between attorneys for Washington state and the Department of Justice.

On Tuesday, Attorney General Nick Brown, along with peers in Oregon, Arizona and Illinois, sued the Trump administration over the order. Shortly after filing the lawsuit, the states asked Coughenour to grant a 14-day temporary restraining order stopping the executive action from taking effect nationwide.

In Oregon, Attorney General Dan Rayfield welcomed the ruling, saying it protects the rights of all children in the state.

“Today was a huge victory,” Rayfield said in a statement. “In terms of the next steps, this temporary restraining order preserves the status quo for now. In the meantime, the states in the other birthright citizenship case in Massachusetts are also arguing for a preliminary injunction.”

Eighteen other states filed a similar lawsuit in federal court in Massachusetts.

Trump signed the executive order shortly after he was sworn into office on Monday. It would end birthright citizenship for babies born to a mother and father who are not U.S. citizens or lawful permanent residents.

Brett Shumate, of the Department of Justice, argued the rush for an emergency pause is unwarranted because the order doesn’t go into effect until Feb. 19. He called the state’s motion “extraordinary.”

Attorneys for the state acknowledged the temporary restraining order is extraordinary, but warranted. Washington would lose federal dollars used to provide services to citizens and officials would be forced to modify those service systems.

The order is “causing immediate widespread and severe harm,” said Lane Polozola, of the Washington attorney general’s office. “Citizens are being stripped of their most foundational right, which is the right to have rights.”

Addressing reporters after the hearing, Brown said while the executive order doesn’t go into effect for nearly a month, it forces states to start preparing now for the change.

The 14th Amendment to the U.S. Constitution codified birthright citizenship in 1868. It begins: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”

The executive order focuses on the “subject to the jurisdiction thereof” phrase.

“The Fourteenth Amendment has never been interpreted to extend citizenship universally to everyone born within the United States,” Trump’s order reads. “The Fourteenth Amendment has always excluded from birthright citizenship persons who were born in the United States but not ‘subject to the jurisdiction thereof.’”

Polozola called this interpretation “absurd,” saying children without legal immigration status are still subject to U.S. law. He added birthright citizenship is a right that is “off limits.”

Legal precedent has long backed up birthright citizenship. In 1898, the U.S. Supreme Court upheld the concept when justices ruled Wong Kim Ark, a man born in San Francisco to Chinese parents, was a U.S.

citizen.

In 2022, about 153,000 babies were born to two parents without legal immigration status across the country, including 4,000 in Washington state, according to the lawsuit filed this week.

Coughenour has been a federal judge for decades. Republican President Ronald Reagan nominated him for the bench in 1981.

Brown called Thursday's hearing "step one."

"But to hear the judge from the bench say that in his 40 years as a judge, he has never seen something so 'blatantly unconstitutional' sets the tone for the seriousness of this effort," Brown said.

Video and audio recording were not allowed in the courtroom Thursday.

Looking forward, the 9th U.S. Circuit Court of Appeals would have jurisdiction over the case. Democratic presidents appointed a majority of the circuit court's judges. Appeals could eventually land the dispute before the U.S. Supreme Court.

Shumate said the case will almost certainly end up there. But Brown said he's taking it "one step at a time."

"I see no reason why in a court of appeals, or even the United States Supreme Court, would reach a different decision than was reached today," Brown told reporters.

A court hearing on a preliminary injunction to pause the executive order while litigation is ongoing is set for Feb. 6.

In court filings this week, state officials, academics and nonprofit leaders explained how the order could have detrimental effects on Washington, including losing federal reimbursements for a variety of social programs.

Tom Wong, an assistant professor at University of California, San Diego, retained by the state, wrote the order will create a "permanent underclass of people who are excluded from U.S. citizenship and are thus not able to realize their full potential."

Congressional Republicans on Thursday introduced legislation to restrict birthright citizenship. The bill would amend federal immigration law to only allow children to be U.S. citizens if one of their parents is a citizen, a green card holder or a legal immigrant serving in the military.

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The ruling in a case brought by Washington and three other states will put the executive order on hold for 14 days as court battles continue.

