



The Supreme Court in Washington on April 7, 2025. Kayla Bartkowski/Getty Images

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5 Takeaways From Supreme Court Hearing on Nationwide Injunctions, Birthright Citizenship

The case could affect how judges can block future policies.

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By **Sam Dorman, Matthew Vadum** | May 15, 2025 Updated: May 15, 2025

The Supreme Court on May 15 heard oral arguments in relation to the Trump administration's request to lift nationwide injunctions placed on the president's birthright citizenship order.

The decision could determine how judges can address presidential actions.

During the argument, the justices posed questions about how far lower court judges could go in issuing relief from particular policies.

Solicitor General D. John Sauer told the court that nationwide injunctions exceed judges' authority under Article 3 of the Constitution.

While members of the Supreme Court have criticized nationwide injunctions in the past, they seemed skeptical that it was appropriate to remove the injunctions in this case.

President Donald Trump's Executive Order 14160, signed on Jan. 20, states that "the Fourteenth Amendment has never been interpreted to extend citizenship universally to everyone born within the United States."

The executive order has prompted debate over the meaning of the 14th Amendment's citizenship [clause](#), which states that "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."

Here are some takeaways from the arguments, as well as considerations surrounding the Supreme Court's ruling.

1. No Final Ruling Expected on Constitutionality

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The argument stemmed from an emergency request made by the Trump administration to limit three separate nationwide injunctions blocking the president's birthright citizenship order.

At such an early stage in the litigation, the justices wrestled more with procedural considerations such as the scope of relief rather than the constitutionality of birthright citizenship for illegal immigrants.

However, judges can still consider the likelihood that each side will succeed with its arguments about the more substantive issues. The issue could also reach the Supreme Court again after further deliberation in lower courts, teeing up an opportunity for the justices to make a more definitive ruling on birthright citizenship.

Sauer could have asked the Supreme Court to delve deeper into the constitutional issues, but he did not. Justice Amy Coney Barrett pressed him on this point and asked why he wanted there to be more consideration by lower courts before the justices took on the issue.

“So this one isn’t clear-cut on the merits?” she asked.

Justice Ketanji Brown Jackson said that if Trump’s order is legally wrong, allowing the administration to continue implementing it would be inconsistent with the rule of law.

“It seems to me that your argument says we get to keep on doing it until everyone who is potentially harmed by it figures out how to file a lawsuit, hire a lawyer, etc.,” she said. “And I don’t understand how that is remotely consistent with the rule of law.”



Solicitor General nominee, D. John Sauer, prepares to testify during his confirmation hearing before the Senate Judiciary Committee on Capitol Hill on Feb. 26, 2025. Chip Somodevilla/Getty Images

2. Several Judges Critical of Trump’s Order

During the May 15 arguments, Justices Sonia Sotomayor and Elena Kagan seemed to think that the administration had misinterpreted the 14th Amendment when it ordered a halt to illegal immigrants’ children receiving birthright citizenship.

“As far as I see it, this order violates four Supreme Court precedents,” Sotomayor told Sauer.

Later, Kagan suggested to Sauer that the administration would continue to lose in defending its policy before lower courts. She was asking what incentive the government would have to appeal the case to the Supreme Court if another judge had not issued a nationwide injunction.

“If I were in your shoes, there is no way I’d approach the Supreme Court with this case, so you just keep on losing in the lower courts, and what’s supposed to happen to prevent that?” she asked.

3. Dispute Over Courts’ Historical Authority

Justice Clarence Thomas seemed the most sympathetic to Sauer’s position and suggested that nationwide injunctions do not have a solid historical basis.

Sauer had argued that the first nationwide injunction was issued in 1963 and that the court had consistently said relief should be limited to plaintiffs.

“So we survived until the 1960s without universal injunctions?” Thomas asked.

Sotomayor, meanwhile, asked New Jersey Solicitor General Jeremy Feigenbaum, “We’ve had universal injunctions in some form—correct?—since the founding.”

Both justices asked about the history of courts issuing orders known as “bills of peace,” which resolve a dispute for multiple parties. Sauer described the practice as similar to a modern class action and different from a nationwide injunction. Sotomayor disagreed with that comparison.

4. Alternatives to Nationwide Injunctions?

Justice Brett Kavanaugh suggested that class actions, or lawsuits in which multiple plaintiffs sue on behalf of a larger group of plaintiffs, could take the place of nationwide injunctions.

If nationwide injunctions were not available in this case, people could file class actions, which could “solve a large part of the problem in a way that complies with the rules,” the justice said.



Supreme Court Justices Samuel Alito, Clarence Thomas, Brett Kavanaugh, and Chief Justice John Roberts attend inauguration ceremonies in the Rotunda of the U.S. Capitol on Jan. 20, 2025. Chip Somodevilla/Getty Images

Kelsi Corkran, an attorney for immigration advocacy groups, disagreed, saying such an approach is “just channeling the problems through a different mechanism.”

Kagan said the state of New Jersey, a litigant in the case, is arguing that without the availability of nationwide injunctions, it could face “administrative costs and ... workability problems” as a result of possibly inconsistent court rulings being issued in different states on the citizenship question.

This could also lead to a “magnet problem” as “everybody moves to the state where the more favorable rule exists,” Kagan said.

5. Difficulties Involved in Suing Over Birthright Citizenship

Jackson said the government’s proposal to curtail nationwide injunctions would make it more difficult for people to sue to vindicate their rights.

“Your argument seems to turn our justice system ... into a ‘catch me if you can’ kind of regime ... where everybody has to have a lawyer and file a lawsuit in order for the government to stop violating people’s rights,” she said.

Sauer disagreed, saying that given the status quo, “the ‘catch me if you can’ problem operates in the opposite direction where we have the government racing from jurisdiction to jurisdiction, having to sort of clear the table in order to implement a new policy.”

“Many of us have expressed frustration at the way district courts are doing their business,” Kagan said.

The current system encourages forum-shopping, she said, referring to plaintiffs choosing to file a case in a jurisdiction where they think that the judge will be sympathetic to their case.

During the first Trump administration, litigants sought favorable rulings by filing in courts perceived to be friendly in San Francisco, but in the succeeding Biden administration, litigants filed in Texas, Kagan said.

“There is a big problem that is created by that mechanism,” she said.

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The Supreme Court in Washington on April 3, 2025. Madalina Vasiliu/The Epoch Times

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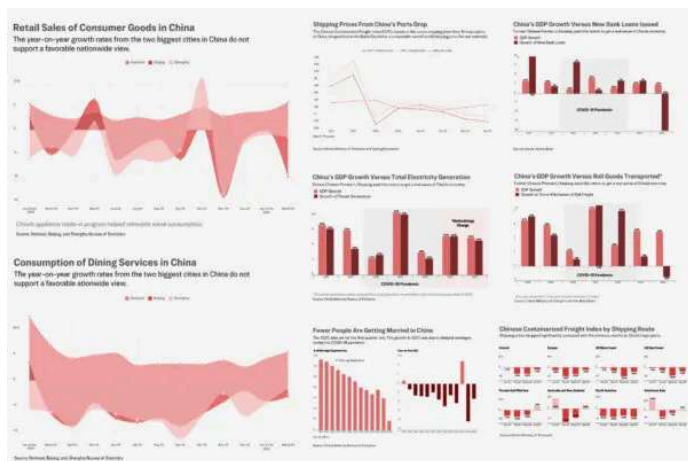
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