



Trump v. Hawaii, 2018 U.S. LEXIS 4026 (2018)

Topics Covered: Civil Rights

Outcome: Very Unfavorable

Issue

The issue in this case was whether Presidential Proclamation 9645, entitled “Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public-Safety Threats” (hereafter, “Proclamation 9645”), is valid.

AMA interest

The AMA opposes the broad denial of legal visas to persons based on their country of origin and/or religion.

Case summary

Proclamation 9645 was issued on September 24, 2017. It stated: “I [the President] ... hereby find that, absent the measures set forth in this proclamation, the immigrant and nonimmigrant entry into the United States of persons described in ... this proclamation would be detrimental to the interests of the United States.” Proclamation 9645 then asserted that, for a variety of reasons, entry of aliens from Iran, Libya, Somalia, Chad, Syria, Yemen, North Korea, and Yemen posed a significant terrorist threat to the United States. This conclusion was primarily based on determinations that substantial portions of those countries were under terrorist control or that those countries were failing to cooperate with the United States in vetting their emigrants.

The State of Hawaii and a representative of the Muslim Association of Hawaii sued the President and various other Executive Branch officials and departments in the United States District Court for the District of Hawaii. They asserted that Proclamation 9645 violated the First Amendment Establishment Clause (viz., “Congress shall make no law respecting an establishment of religion”) and the Immigration and Nationalization Act (INA), and they sought an injunction to prevent its enforcement.

The Hawaii District Court found that the asserted purposes behind Proclamation 9645 were pretexts and Proclamation 9645 was intended to discriminate against Muslims. It held that Proclamation 9645 was an unconstitutional establishment of religion, and it violated the INA. The court temporarily enjoined Proclamation 9645.

The United States appealed the temporary injunction to the United States Court of Appeals for the Ninth Circuit. The Ninth Circuit slightly narrowed the injunction but basically affirmed it. It found Proclamation 9645 probably invalid, because it appeared to be a form of discrimination

against immigrants based on their country of origin, which was forbidden under INA § 1152(a). It did not reach the Establishment Clause argument.

The United States Supreme Court granted *certiorari*.

On June 26, 2018, the Supreme Court, in a split decision, reversed. It held that the INA granted the President broad discretion to restrict the entry of aliens into the United States on account of national security considerations. Proclamation 9645 set forth ample reasons to justify the restriction. Further, the Establishment Clause argument hinged on whether Proclamation 9645 met the rational basis test, which it did.

Litigation Center involvement

A coalition of health care organizations, led by the Association of American Medical Colleges (AAMC), filed an *amicus* brief to oppose Proclamation 9645. The Litigation Center joined the brief.

United States Supreme Court brief