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Legal Resources on the Trump Immigration Ban

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LEGAL RESOURCES ON THE IMMIGRATION BAN

compiled by the Center for Constitutional Law at Akron

Updated Feb. 28, 2017

THE EXECUTIVE ORDER

[Presidential Executive Order 13769 \(Jan. 27, 2017\)](#)

See also [President's Executive Order 13767 \(Jan. 25, 2017\)](#)

See also [Presidential Executive Order 13768 \(Jan. 30, 2017\)](#)

See Dorf on Law, [The True Story of the 7 Countries](#)

OVERVIEW:

[Special Collection, Civil Rights Clearinghouse](#), Civil Rights Challenges to Trump Refugee/Visa Order (including dockets, documents, and summary of all 20 plus cases)

[Trump Executive Order Litigation: Procedural & Constitutional Issues](#), Prof. Suzanne Sherry (Vanderbilt) (Feb. 24, 2017)

Darweesh v. Trump (E.D.N.Y.) (Brooklyn) (Donnelly, J.)

Representative habeas action on behalf of all detained travelers from the seven banned countries (Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen) who were lawful permanent residents, who held valid visas, or who were other individuals from the seven listed countries legally authorized to enter the United States.

[Complaint, Darweesh v. Trump](#)

Temporary Restraining Order, Jan. 28, 2017 – issuing nationwide ban

[Case site, Darweesh, Civil Rights Litigation Clearinghouse](#)

See Steve Vladek, [The Airport Cases: What Happened, and What's Next](#)

See Sam Bray, [The Case Against National Injunctions No Matter Who is President](#)

Louhghalam v. Trump (D. Mass) (Boston)

Habeas action on behalf of two lawful permanent residents (both Iranian nationals, professors at the University of Massachusetts-Dartmouth) detained at Logan Airport returning from an academic conference.

[Tootkaboni v. Trump TRO](#) (case later renamed)

1. “[S]hall limit **secondary screening** to comply with the regulations and statutes in effect prior to the Executive Order, including 8 U.S.C. § 1101(a)(13)(C)”; and

2. “[S]hall not, by any manner or means, **detain** or **remove** [those covered by the Executive Order] who, absent the Executive Order, would be legally authorized to enter the United States.”

[Order Denying Extension of TRO](#) (Feb. 3, 2017) denying injunctive relief or continuation
Plaintiffs’ counsel, ACLU, [Case Litigation Website](#) (with docket and court documents)

[Case site, Louhghalam, Civil Rights Litigation Clearinghouse](#)

Aziz v. Trump (E.D. Va.) (Brinkema, J.) (Dulles airport)

[Temporary Restraining Order](#)

Order Granting Preliminary Injunction (E.D. Va. Feb. 13, 2017) (finding likelihood of success on the merits of the 1st Amendment Establishment Clause claim, that case justiciable, that state had standing based on the injuries to its universities, and limitations on president’s power to issue executive orders).

Maximum power does not mean absolute power. Every presidential action must still comply with the limits set by Congress’ delegation of power and the constraints of the Constitution, including the Bill of Rights. It is a bedrock principle of this nation’s legal system that “the Constitution ought to be the standard of construction for the laws, and that wherever there is evident opposition, the laws ought to give place to the Constitution.” The Federalist No. 81, at 481 (Alexander Hamilton) (Clinton Rossiter ed., 1999). Defendants have cited no authority for the proposition that Congress can delegate to the president the power to violate the Constitution and its amendments and the Supreme Court has made it clear that even in the context of immigration law, congressional and executive power “is subject to important constitutional limitations.”

See *Analysis of Preliminary Injunction Decision* by [Con Law Blog](#)

Doe v. Trump (Seattle)

[Temporary Restraining Order](#), Jan. 28, 2017 (narrowly applies to two petitioners only)

Vayeghan v. Trump (C.D. Cal.) (Los Angeles)

[Temporary Restraining Order](#)

[Case site, Vayeghan, Civil Rights Litigation Clearinghouse](#)

State of Washington and Minnesota v. Trump (W.D. Wash.)

The States of Washington and Minnesota filed this action challenging the President's Executive Order. The State seeks a finding that certain sections of the Executive Order are contrary to the Constitution and laws of the United States, and enjoining Defendants from implementing or enforcing those sections. The State further seeks entry of a nationwide temporary restraining order.

See *Wall St. J.*, [The Key Arguments in State of Washington v. Trump](#) (Feb. 7, 2017)

[Case Site, Civil Rights Litigation Clearinghouse](#)

[Complaint](#) (Jan. 30, 2017) in opposition to the President's Executive Order (EO)

Causes of action include that the executive order:

- (1) violates the Equal Protection Clause or the Establishment Clause of the Constitution because it discriminates on the basis of country of origin and on the basis of religion;
- (2) goes beyond Presidential authority under federal statutes (a *Youngstown Sheet & Tube* issue); and
- (3) that the President failed to follow proper administrative procedure and that the order should have been issued as an administrative regulation rather than an Executive Order

*[Temporary Restraining Order](#) (W.D.Wash. Feb. 3, 2017) (Robart, J.) issuing TRO staying the immigration ban with a nationwide injunction

[Video Recording of District Court TRO Hearing](#)

[US Courts for the Ninth Circuit Case Website](#) (court docket and case documents)

[Government's Emergency Motion for Stay](#)

Exhibit E: Transcript of Hearing before Judge Robart

[Denial of Emergency Stay Pending Fuller Briefing](#) (9th Cir. Feb. 4, 2017)

[9th Cir Order Denying Stay of TRO](#) (Feb. 9, 2017) (leaving TRO in place) (reviewing the appeal of the TRO because it was like a preliminary injunction and imposed after full adversarial proceedings; finding no likelihood of success on the Government's argument that executive orders are completely unreviewable and that there is a good claim of due process and establishment clause violations; finding no irreparable injury to the Government, but irreparable injury to the refugees).

See [Professor Margo Schlanger Explains Immigration Ban and 9th Cir App Decision](#)

See [Michael McConnell, Flawed Restraining of a Flawed Order](#) (criticizing the decision on standing and due process)

[Judge's Sua Sponte Call for En Ban Review](#) (briefing due Feb. 16)

[District Court Moves Forward with Discovery](#) (Reuters Feb. 14, 2017)

[DOJ Motion to Hold in Abeyance](#) (Feb. 24, 2017) (requesting court hold off on further legal action until President has filed a revised immigration executive order)
-[Ninth Circuit Denies Motion](#) (Feb. 27, 2017)

HIAS v. Trump (D. Md.) (Feb. 7, 2017)

[Why We're Suing](#): “As a religious organization that specializes in rescuing people from religious and political persecution, HIAS is concerned about two aspects of the order. One is the way that the administration is explicitly favoring one religion over another. Our other major concern is the impact of this order, and the chaos that has stemmed from its initial implementation, on vulnerable refugees who were about to be resettled to the U.S. and on those who are already here who were expecting to be reunited with family, prior to the order. HIAS, as one of the plaintiffs in this suit, is challenging the constitutionality of this order on the grounds that it discriminates against one religion while favoring others.”

[Motion for Preliminary Injunction](#) (challenging reduction of refugee admission from 110,000 to 50,000) (Feb. 23, 2017)