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Supreme Court Allows Partial Effect to Trump Travel Ban, Will Review Case in October

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It comes as no surprise that the U.S. Supreme Court will hear the travel ban case and will do so in early October. Meanwhile, the Court stayed lower court injunctions allowing President Donald Trump's revised travel ban to go in effect, but only to the extent that it affects individuals with no bona fide connection to the United States. Those most affected will be tourists from the six banned countries and refugees fleeing hostile environments who have no ties to the U.S.

Individuals who have family ties to the U.S., jobs or job offers in the U.S., or who are attending school or have been accepted to school will not be subject to the ban. These individuals are being placed in a different category, not on account of their own merits, but as an indirect result of the Court's efforts to protect the rights of the American citizens or entities to which they have ties.

This balancing of the equities may signal the Court is less focused on the Establishment Clause ("Muslim ban") arguments, instead, focusing on the Executive's interest in national security. The Court stated, "[The interest in preserving national security is 'an urgent objective of the highest order.' . . . To prevent the Government from pursuing that objective by enforcing \[the provisions\] against foreign nationals unconnected to the United States would appreciably injure its \[the Government's\] interests, without alleviating obvious hardship to anyone else.](#)"

The Court stated that a bona fide relationship cannot be established simply to avoid the strictures of the travel ban. It explained, "[A] nonprofit group devoted to immigration issues may not contact foreign nationals from the designated countries, add them to client lists, and then secure their entry by claiming injury from their exclusion."

The Court's opinion was a Per Curiam, not authored by any particular justice. However, Justice Clarence Thomas authored a concurring and dissenting opinion. He stated that he would lift the injunctions entirely, noting the potential complications of implementing procedures to determine bona fide connections. Justices Samuel Alito and Neil Gorsuch joined Justice Thomas in that opinion.

Attempting to avoid the original travel ban chaos, the Trump Administration had announced the ban would not go into effect for 72 hours after a stay of the injunction. Accordingly, [it would seem that it will go into effect](#), to the extent allowed by the Court, on June 29th. Once in effect, it is possible that at least part of the ban that is being enforced will be moot by the time Supreme Court hears the case in October.

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