Nos. 24A884, 24A885, 24A886

IN THE SURPEME COURT OF THE UNITED STATES

DONALD J. TRUMP, et al., *Applicants*
v.
CASA, INC., et al., *Respondents.*

DONALD J. TRUMP, et al., *Applicants*
v.
WASHINGTON, et al., *Respondents.*

DONALD J. TRUMP, et. al., *Applicants*
v.
NEW JERSEY, et. al., *Respondents.*

On Oral Argument Post Deferral of Consideration of Application for Partial Stay Pending Oral Argument Set for 10 A.M. Thursday, May 15, 2025

BRIEF AMICUS CURIAE OF COREY J. BIAZZO, ESQ. IN SUPPORT OF RESPONDENTS

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INTEREST OF AMICUS

Amicus is a practicing civil litigation attorney and author who has conducted extensive legal research and continuous legal education in the field of Constitutional Law. As an author, Amicus has drafted politically neutral guidebooks for laypersons to understand the objective meaning, scope and limitations of the U.S. Constitution's Second Amendment and foundational state and federal gun laws. *See* Corey J. Biazzo, Florida Gun Ownership and the Second Amendment (2nd ed. 2025). As a legal practitioner, Amicus has encountered situations in the representation of clients where provisions of the U.S. Constitution was implicated. Amicus' knowledge of those implications enabled amicus to provide amicus' clients with high quality zealous advocacy.

For example, in *Hallandale Plaza, LLC v. New Tropical Car Wash, LLC*, 335 So. 3d 712 (Fla. 4th DCA 2022), amicus' advocacy with Co-Counsel Kevin Fabrikant, Esq. resulted in Florida's Fourth District Court of Appeals reversing and remanding a commercial eviction action after the Fourth District Court of Appeals found that the trial court violated the appellant's Fourteenth Amendment Due Process Rights under the U.S. Constitution. The trial court violated the appellant's Due Process rights when it dismissed the appellant's commercial eviction action at a preliminary hearing after no Motion to Dismiss had been filed by the Respondent or set for a hearing, and no notice was given to the Appellant that the action could be dismissed at the preliminary hearing. During the preliminary hearing, the trial court was statutorily limited to determining the amount of rent to be paid into the court registry by the tenant during the pendency of the eviction action pursuant to Fla. Stat. § 83.60. The appellate court found that the trial court exceeded its authority when the trial court *sua sponte* dismissed the Appellant's case, after the trial court rendered opinions on issues of merit in the case that were supposed to be ruled on at trial.

Amicus is filing this brief to address the vital interests in this Court upholding the integrity of our nation's present system of federalism as designed by the U.S. Constitution, regardless of who occupies the elected and appointed offices in the White House, Congress and the Judiciary. Amicus is a concerned member of the bar and an officer of the Court who is oath bound to support the U.S. Constitution. Additionally, Amicus is a U.S. Navy veteran who has taken an oath to support and defend the U.S. Constitution. Amicus is concerned that this instant appeal presents a pivotal moment in the history of the United States where this Court must fiercely and unambiguously reinforce our well established system of federalism and jealously guard the independence of the Judiciary. Therefore, Amicus tenders the foregoing.

SUMMARY OF ARGUMENT

The American federal government must maintain an equilibrium of power between the three branches of the government, as prescribed in Articles I, II and III of the U.S. Constitution to preserve our present constitutional democratic republic. No branch of the federal government shall be permitted to exercise the constitutionally designated powers of a co-equal branch. Further, this Court shall not be permitted to amend the Constitution through its Power of Judicial Review when the political branches manufacture litigation through the issuance of unconstitutional executive orders and unconstitutional congressional statutes.

In this instant matter, the President appears to have attempted to usurp the Judiciary's Article III power of Judicial Review, through the issuance of an Executive Order that attempts to redefine the binding legal interpretation of the Fourteenth Amendment's Birthright Citizenship Clause for executive agencies. The President conducted this action notwithstanding the President's lack of authority to unilaterally amend the legal interpretation of the U.S. Constitution. The President's action predictably resulted in the President getting sued for attempting to usurp the Judiciary's Article III Judicial Review authority. The President, by appealing the foreseeable adverse rulings from the lower courts, asks this Court to embrace his narrow interpretation of the Birthright Citizenship clause. The President's non-binding interpretation of the Birthright Citizenship clause appears to directly conflict with this Court's previous exercise of Judicial Review which determined the binding legal interpretation of the clause in *United States v. Wong Kim Ark*, 169 U.S. 649 (1898).

In *Wong Kim Ark*, the Court stated in part:

> The Constitution nowhere defines the meaning of these words, either by way of inclusion or of exclusion, except insofar as this is done by the affirmative declaration that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States." In this as in other respects, it must be interpreted in the light of the common law, the principles and history of which were familiarly known to the framers of the Constitution. *Minor v. Happersett*, 21 Wall. 162; *Ex parte Wilson*, 114 U. S. 417, 114 U.S. 422; *Boyd v. United States*, 116 U.S. 616, 116 U.S. 624, 116 U.S. 625; *Smith v. Alabama*, 124 U.S. 465. The language of the Constitution, as had been well said, could not be understood without reference to the common law. Kent Com. 336; Bradley, J., in *Moore v. United States*, 91 U.S. 270, 91 U.S. 274. Page 169 U.S. 655. [1]

[1] No counsel for any party authored this brief in whole or in part and no person or entity, other than amicus curiae has contributed money that was intended to fund preparing or submitting the brief.

> In *Smith v. Alabama*, Mr. Justice Matthews, delivering the judgment of the court, said: "There is no common law of the United States, in the sense of a national customary law, distinct from the common law of England adopted by the several States each for itself, applied as its local law, and subject to such alteration as may be provided by its own statutes. . . . There is, however, one clear exception to the statement that there is no national common law. The interpretation of the Constitution of the United States is necessarily influenced by the fact that its provisions are framed in the language of the English common law, and are to be read in the light of its history."
>
> The fundamental principle of the common law with regard to English nationality was birth within the allegiance, also called "ligealty," "obedience," "faith," or "power" of the King. The principle embraced all persons born within the King's allegiance and subject to this protection. Such allegiance and protection were mutual … and were not restricted to natural-born subjects and naturalized subjects, or to those who had taken an oath of allegiance, but were predicable of aliens in amity so long as they were within the kingdom. Children, born in England, of such aliens were therefore natural-born subjects. But children, born within the realm, of foreign ambassadors or the children of alien enemies, born during and within their hostile occupation of part of the King's dominions, were not natural-born subjects because not born within the allegiance, the obedience, or the power, or, as would be said at this day, within the jurisdiction, of the King.

The President's vehicle of attempting to Usurp the Judiciary's Power of Judicial Review is Executive Order Number 14160, titled "Protecting the Meaning and Value of American Citizenship." Section 1 of the Executive Order states in part, "… the Fourteenth Amendment has never been interpreted to extend citizenship universally to everyone born within the United States …" Exec. Order No. 14160.

The President seeks to impose his interpretation of the Fourteenth Amendment on the country through ordering executive agencies to only recognize American birthright citizenship in individuals after the order's activation date that satisfy classes of persons recognized by the order. Specifically, Section 2 of the Order states in part:

> *Policy*. (a) It is the policy of the United States that no department or agency of the United States government shall issue documents recognizing United States citizenship, or accept documents issued by State, local, or other governments or authorities purporting to recognize United States citizenship, to persons: (1) when that person's mother was unlawfully present in the United States and the person's father was not a United States citizen or lawful permanent resident at the time of said person's birth, or (2) when that person's mother's presence in the United States was lawful but temporary, and the

person's father was not a United States citizen or lawful permanent resident at the time of said person's birth.

The scope of people that are eligible for Fourteenth Amendment birthright citizenship under the President's executive order is obviously more narrow than this Court recognized under the Fourteenth Amendment Birthright Citizenship Clause in *Wong Kim Ark*.

This Court's potential exercise of Judicial Rereview of this previously decided issue would reward the President's unconstitutional action of directing executive agencies to ignore settled law. The new Presidential power to activate Judicial Rereview from the Judiciary could be abused by the political branches with an express ramp to amend the U.S. Constitution, notwithstanding the amendment procedures outlined in Article V. This Judicial Rereview Article V work around would likely come at great expense to the American people, and it would undoubtedly subordinate the independent Judiciary to the political branches.

The Court's potential revisiting this issue would be akin to the Federal Judiciary ceding its Judicial Review authority and independence to the President, to be exercised at the whims of the President. This would create a policy making express ramp for the President to effectuate changes to the U.S. Constitution, without the consensus required pursuant to Article V's amendment procedures. This potential surrender of the Judiciary's Article III Judicial Review power to the President could lead the country down a path that leads to the eventual neutering and final erosion of the U.S. Constitutional government, founded on the division and separation of power. Further, this potential surrender of judicial independence by this Court could also increase the rising public perception that members of the Judiciary are merely politicians in robes.

This Court must affirm the vitality of the Constitution's Separation of Powers, as delineated in Articles I, II, and III, because the Separation of Powers is the foundation to all of our constitutionally recognized civil liberties. "… while it is entirely appropriate for us Americans to celebrate our wonderful Bill of Rights, we realize (or should realize) that it represents the fruit, and not the roots, of our constitutional tree. The rights it expresses are the *reasons* that the other provisions exist. But it is those other humdrum provisions—the structural, mechanistic portions of the Constitution that pit, in James Madison's words, "ambition against ambition," and make it impossible for any element of government to obtain unchecked power—that convert the Bill of Rights from a paper assurance to a living guarantee." Antonin Scalia, Scalia Speaks 163 (1st ed. 2017).

This Court must fiercely affirm that the only way that the President can revise the U.S. Constitution's Fourteenth Amendment, or any other section of the U.S. Constitution is through the Constitution's Amendment Procedures outlined in Article

V. Those procedures require the President to gather a large consensus of federal and state elected legislators or state conventions of voting citizens to amend the Constitution. The President's proposed paths of either amending the Constitution via unilateral executive fiat or through triggering this Court's potential exercise of Judicial Rereview must be unambiguously closed to the political branches. This Court should also keep in mind that an exercise of Judicial Rereview in this matter in reward to the President's unlawful actions could also inspire politically ambitious members of Congress to enact statutes that attempt to usurp the power of Judicial Review for the Congress or attempt to manufacture litigation to attempt to amend the Constitution through Judicial Rereview.

Therefore, this Court must unequivocally reject: (1) the President's proposed imposition of the President's interpretation of the Fourteenth Amendment via an executive order over this Court's interpretation of the Fourteenth Amendment; and (2) the notion that the Executive has any concurrent and/or superseding authority of Judicial Review with or over the Judiciary; and (3) the notion that the President can manufacture standing in others through issuing unconstitutional executive orders to compel this Court to revisit its past interpretations of the Constitution, where the President could then attempt to persuade the Court to adopt his conflicting interpretations of the Constitution to bypass Article V's amendment procedures.

This Court should recognize that the President is also by advancing this appeal, asking this Court for permission for his disputed executive order to somehow nullify a Congressional statute, specifically 8. U.S.C. § 1401, in an unlawful attempt to usurp Congress' Article I legislative power. The statute appears to essentially codify the Fourteenth Amendment's Birthright Citizenship clause, with language that also contradicts the subject Executive Order like this Court's ruling in *Wong Kim Ark* contradicts the Executive Order. Given that Article I delegates all legislative authority to Congress, this Court must also unequivocally reject the notion that the Executive has any legislative authority, especially legislative authority to nullify Congressional statutes with Executive Orders. This Court's potential acquiescence to the President's unlawful action, would amount to the failure of another vital check on the authority of Executive Branch at the expense of the Legislative Branch.

The Court's failure to strike down the disputed Executive Order as unconstitutional and void could in turn, lead to the termination of an equilibrium of power between the three branches of government and the dilution of the rule of law into the rule of men. Article V must be affirmed as the only lawful path to modify the U.S. Constitution. The Judiciary must be affirmed as the only lawful possessor of the Power of Judicial Review, pursuant to Article III. The Congress must be affirmed as the only lawful possessor of the Legislative Power, pursuant to Article I. Our Constitutional system of three co-equal branches of government must be maintained and vehemently affirmed by this Court for this country to remain a nation governed

by the rule of law instead of a nation governed by the rule of men and for this great experiment of self-governance to strongly persevere through the distant future.

ARGUMENT

I. The Executive Branch Does Not Have the Power of Judicial Review

In creating our system of divided power in the Constitution, the founders considered it vital that "the judiciary remain truly distinct from both the legislature and the executive." The Federalist No. 78, p. 466 (C. Rossiter ed. 1961) (A. Hamilton). "As Hamilton put it, quoting Montesquieu, "there is no liberty if the power of judging be not separated from the legislative and executive powers." *Stern v. Marshall*, 131 S. Ct. 2594, 180 L.Ed.2d 475, 564, U.S. 462 (2011). The Constitution assigns the resolution of "the mundane as well as the glamorous, matters of common law and statute as well as constitutional law, issues of fact as well as issues of law" – to the Judiciary." *Northern Pipeline Construction Co. v. Marathon Pipe Line Co. United States v. Marathon Pipe Line Co.*, 73 L.Ed.2d 598, 102 S.Ct. 2858, 458 U.S. 50, 6 C.B.C. 2d 785, 9 B.C.D. 67 (1982).

The Judicial Power of the U.S. federal government is delegated to this Court and the lower federal Courts. "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." Art. III, Sec. 1 U.S. Const. "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States…" Art. III, Sec. 2 U.S. Const. The premier power of this Court and the federal judiciary is the power of Judicial Review. "It is emphatically the province and duty of the judicial department to say what the law is. … the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument." *Marbury v. Madison* 5 U.S. 137, 2 L.Ed. 50, 1 Cranch 137 (1803).

> Having thus laid down and discussed the principles which ought to regulate the constitution of the federal judiciary, we will proceed to test, by these principles, the particular powers of which, according to the plan of the convention, it is to be composed. It is to comprehend "all cases in law and equity arising under the Constitution"… The Federalist No. 80.
>
> As Chief Justice MARSHALL put it, "it is emphatically the province and duty of the judicial department to say what the law is." And never, this Court has warned, should the "judicial power … be shared with the Executive Branch." *Kisor v. Wilkie*, 204 L.Ed.2d 841, 139 S.Ct. (2019). "Our Nation's founders were painfully aware of the dangers of executive and legislative intrusion on judicial decision-making. One of the abuses of royal power that led to the American

> Revolution was King George's attempt to gain influence over colonial judges. Colonial legislatures, too, had interfered with the courts' independence "at the behest of private interests and factions." These experiences had taught the founders that " 'there is no liberty if the power of judgment be not separated from the legislative and executive powers.'" They know that when political actors are left free not only to adopt and enforce written laws, but also to control the interpretation of those laws, the legal rights of "litigants with unpopular or minority causes or … who belong to despised or suspect classes" count for little. *Id.*
>
> Maybe the powerful, well-heeled, popular, and connected can wheedle favorable outcomes from a system like that but what about everyone else? They are left always a little unsure what the law is, at the mercy of political actors and the shifting winds of popular opinion, and without the chance for a fair hearing before a neutral judge. The rule of law begins to bleed into the rule of men." *Id.* "… Sitting atop the judicial branch, this Court has always carried a special duty to "jealously guard" the Constitution's promise of judicial independence. So we have long resisted any effort by the other branches to" 'usurp a court's power to interpret and apply the law to the circumstances before it. The judicial power to interpret the law, this Court has held, "cannot more be shared with another branch than the Chief Executive, for example, can share with the Judiciary the veto power, or the Congress share with the Judiciary the power to override a Presidential veto." *Id.*
>
> The Court has long held that Congress cannot "indirectly control the action of the courts, by requiring of them a construction of the law according to its own views. If Congress disagrees with how courts are interpreting an existing statute, it is free to amend the statute to establish a different rule going forward. What it cannot do is issue "a mandate … to compel the courts to construe and apply existing law, not according to the judicial, but according to the legislative judgment." *Id.*

Similarly, the President cannot issue an executive order mandating that his own interpretation of the Fourteenth Amendment be applied by Federal government agencies over the precedent of this Court establishing the Judiciary's interpretation of the Fourteenth Amendment through the Judiciary's Article III constitutional power of Judicial Review.

> When we defer to an agency interpretation that differs from what we believe to be the best interpretation of the law, we compromise our judicial independence and deny the people who come before us the impartial judgment that the Constitution guarantees them. And we mislead those whom we serve by placing a judicial imprimatur on what is, in fact, no more than an exercise of raw political executive power." *Id.* "Each branch is vested with an exclusive

form of power, and "no branch can encroach upon the powers confided to the others." *Moody v. Netchoice, LLC*, 144 S.Ct. 2383, 219 L.Ed.2d 1075 (U.S. 2024) *citing Patchav v. Zinke*, 583 U.S. 244, 250, 138 S.Ct. 897, 200 L.Ed. 2d 92 (2018). In the Judicial Branch's case, it is vested with the "ultimate and supreme" power of judicial review. *Chicago & Grand Trunk R. Co. v. Wellmann*, 143 U.S. 339, 345 12 S.Ct. 400, 36 L.Ed. 176 (1892).

The complete independence of the courts of justice is peculiarly essential in a limited Constitution. By a limited Constitution, I understand one which contains certain specified exceptions to the legislative authority; … Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing.

Some perplexity respecting the rights of the courts to pronounce legislative acts void, because contrary to the Constitution, has arisen from an imagination that the doctrine would imply a superiority of the judiciary to the legislative power. It is urged that the authority which can declare the acts of another void, must necessarily be superior to the one whose acts may be declared void. …

There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid. …

It is far more rational to suppose, that the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.

… where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought

> to be governed by the latter rather than the former. They ought to regulate their decisions by the fundamental laws, rather than those which are not fundamental…
>
> This independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors, which the arts of designing men, or the influence of particular conjunctures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community. The Federalist No. 78

Thus, in the instant case before the Court, the Court cannot let the Chief Executive himself, exercise raw political executive power that tramples the independent judiciary, which has already rendered its interpretation of the Fourteenth Amendment Birth Right Citizenship clause, which the President rejects and attempts to change through an executive order mandating his interpretation of the Constitution over this Court's interpretation of the Constitution that was reached through its exercise of its Article III Power of Judicial Review.

Article II of the U.S. Constitution delegates no authority to the Executive, to determine what the law is. "… he shall take Care that the Laws be faithfully executed." Art. II, Sec. 3 U.S. Const. While this language delegates the authority to the President to enforce federal law, it does not give the President the authority to impose the President's interpretation of the law and the supreme law, the Constitution over this Court's interpretation of the law and the Constitution, because the Constitution delegates the Judicial Review Authority solely to the Judiciary in Article III.

II. The Executive Branch Does Not Have the Power to Legislate

This Court has essentially recognized that the Fourteenth Amendment Birthright Citizenship Clause recognizes that individuals born within the physical territories of the United States, (who are not the children of foreign diplomats working in the United States on behalf of a foreign government and who are not the children of hostile foreign occupiers of the physical United States) are natural born American Citizens. *See United States v. Wong Kim Ark*, 169 U.S. 649 (1898). Additionally, Congress appears to have essentially codified the language of the Fourteenth Amendment into congressional statute, which was enacted after the Court issued its opinion in *Wong*.

> The following shall be nationals and citizens of the United States at birth:

(a) A person born in the United States, and subject to the jurisdiction thereof…
8 U.S. Code § 1401.

Article I delegates the legislative authority to the U.S. Congress. "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Art. I U.S. Const. "… the Congress is empowered "To make all Laws which shall be necessary and proper for carrying into Execution' its general powers. Art. 1, Sec. 8, Par. 18." *Panama Refining Co. v. Ryan Amazon Petroleum Corporation et. Al.*, 293 U.S. 388, 79 L.Ed. 445, 55 S.Ct. 241 (1934). The Congress manifestly is not permitted to abdicate or to transfer to others the essential legislative functions with which it is thus vested. *Id.*

"The President's power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself." *Youngstown Sheet Tube Co. v. Sawyer*, 26 A.L.R.2d 1378, 343 U.S. 579, 96 L.Ed. 1153, 72 S.Ct. 863 (1952). In the instant case before us, as in *Youngstown*, there is no statute that expressly authorizes the President to nullify 8 U.S.C. Sec. 1401, nor is there any act of Congress that implies that the President has such power.

> In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute.

The first section of the first article of the Constitution says that "All legislative Powers herein granted shall be vested in a Congress of the United States." As the plain text of the Constitution itself states and as the precedent of this Court states, the President has no law making authority and thus, he cannot nullify the aforementioned Congressional statute through an executive order. *Id.*

Article II of the U.S. Constitution delegates no authority to the Executive, to legislate law. "… he shall take Care that the Laws be faithfully executed." Art. II, Sec. 3 U.S. Const. While this language delegates the authority to the President to enforce federal law, it does not give the President the authority to negate Congressional Statutes with Executive Orders, because the Constitution delegates the Legislative Authority solely to the U.S. Congress. "If there is to be a new procedure in which the President will play a different role in determining the final text of what may "become a law," such change must come … through the amendment procedures set forth in Article V of the Constitution. *Clinton v. New York*, 141 L.Ed.2d 393, 524 U.S. 417, 118 S.Ct. 2091 (1998).

On at least four occasions members of this Court have articulated the vital principle that *no person, including the President, is above the law*. *See United States v. Burr*, 25 F. Cas. 30, 34 (C.C. Va. 1807) (No. 14,692d); *United States v. Nixon*, 418 U.S. 683, 713 (1974); *Clinton v. Jones*, 520 U.S. 681 (1997); *Trump v. Vance*, 140 S. Ct. 2412, 2431 (2020); *Trump v. United States*, 144 S.Ct. 2312, 219 L.Ed.2d 991 (U.S. 2024). Therefore, the current President is not above the law and the President is duty bound to enforce the aforementioned Congressional Statute, which appears to conflict with his subject Executive Order. Further the President shall enforce this Court's Interpretation of the U.S. Constitution's Fourteenth Amendment and the President shall not issue executive orders that undermine or attempt to supersede congressional statutes.

III. The President Cannot Issue Unlawful Executive Orders to Manufacture Litigation to Amend the Constitution Through Judicial Review

An evaluation of the substantive arguments presented by the President is likely unnecessary in this matter because the only issue that needs clarification at this time is whether an unconstitutional Executive Order, that appears to attempt to usurp Judicial and Legislative authority is an appropriate vehicle to amend the U.S. Constitution, notwithstanding the existence of Article V's Amendment procedures. In the instant case, it appears that the President may have issued the subject Executive Order to manufacture a case or controversy for the respondents, who would initiate litigation against the President, so the President could attempt to obligate this Court revisit its holding in *United States v. Wong Kim Ark*, 169 U.S. 649 (1898), to advance the President's political objectives of limiting the Fourteenth Amendment's Birthright Citizenship clause.

President Donald Trump stated the following in a media interview with NBC's Meet the Press Reporter Kristen Welker on or around December 8, 2024 regarding his political objective of changing U.S. policy regarding birthright citizenship:

> **Kristen Welker:** Can you get around the Fourteenth Amendment?
>
> **President-Elect Trump:** Well we're going to have to get a change or maybe have to go back to the people but we have to end it. We're the only country that has it … We're going to end that because it's ridiculous.
>
> **Kristen Welker:** Through executive action?
>
> **President-Elect Trump:** Well if we can through executive action, I was going to do it through executive action but we had to fix Covid first, to be honest with you … we have to end it. https://www.youtube.com/watch?v=2LnMTjpuO1o

While the President is free to pursue his policy objectives as an elected official, in this instance, through Article V, this Court cannot create an express lane through this Court for the President to bypass the sole lawful procedures for amending the U.S. Constitution that are contained in Article V. The President must gather the necessary consensus pursuant to Article V to advance his agenda. Otherwise this Court risks potentially fatal blows to its independence, credibility and legitimacy as an institution of the American Constitutional order and as a co-equal branch of government to the Executive. Public confidence in the Court would likely further erode and the public may question whether members of the Judiciary are just politicians in robes.

This Court is not a proper venue for effectuating political policy changes, especially through amendments to the U.S. Constitution. The Court should nullify the President's disputed Executive Order as being unconstitutional because it violates the Fourteenth Amendment and because it violates Articles I and III because it attempts to usurp judicial and legislative authority. The Court's precedent on the meaning of the Fourteenth Amendment as established in *United States v. Wong Kim Ark*, 169 U.S. 649 (1898) should be upheld, in light of the fact that it appears that the President may have erroneously manufactured a crisis for others through his above-mentioned unconstitutional Executive Order, to create a venue where 9 lawyers could potentially redefine the Fourteenth Amendment for the whole country, outside of the Article V process that is designated in the Constitution as the sole process for amending the Constitution.

If this Court opens up a political Judicial Rereview express ramp on this case, the current President and future Presidents will likely continue to attempt to create standing in others to sue them through issuing unconstitutional executive orders, so the Presidents can advance their political agendas through this Court, outside of Article V's revision procedures.

This potential erosion of the rule of law is something that cannot be tolerated by this Court under our Constitution. If the most powerful individual in the United States is permitted to break the law, what is there to prevent others from also believing that they can also violate the law. Such a judicial travesty in this case could lead the country down a road of uncertainty, with a likely increase in potential corruption by elected officials and further potential unconstitutional actions and directives from the President that attempt to present matters for Judicial Rereview to hastily amend the Constitution through nine lawyers outside of Article V's consensus requirements.

IV. Conclusion

"The government of the United States has been emphatically termed a government of laws, and not of men." *Marbury v. Madison*, 5 U.S. 137, 163 (1803).

This phrase means that the U.S. government faithfully abides by the U.S. Constitution's requirements and properly enacted laws. The President's attempt at eroding the rule of law is something that cannot be tolerated by this Court under our Constitution. If the most powerful traditional role model figure in the United States is permitted to break the law, what is there to prevent others from also believing that they can violate the law. Such a judicial travesty in this case could lead the country down a road of uncertainty, with a likely increase in potential corruption by elected officials and further potential unconstitutional actions and directives from the President and future Presidents. It is urgent that the Court uphold our Constitutional system, where the people's constitutional rights are protected, and our system remain a system of divided powers to co-equal branches of governing in accordance with the U.S. Constitution.

No elected official in this country is unbound by the rule of law and the superior law of the land, the U.S. Constitution. While this may be a pesky reality for some politicians, it applies to all officials in the Federal Government, regardless of the popularity of some officials. Each branch of government must stay in their respective constitutionally designated lanes and lawfully execute their powers on behalf of the People, without violating the rights of the People and at all times in conformity with the law and with the supreme American law, the U.S. Constitution.

In this instance and others, the Judiciary, regardless of shifting political winds, must protect the People's rights enshrined in the Constitution. This foundational constitutional mandate applies at least until the People amend the Constitution through the lawful procedures in Article V, to require something else of this Court. Regardless of where the People stand on the political spectrum, this Court and the entire Federal Judiciary must unapologetically uphold the U.S. Constitution regardless of who it upsets. An alternative path would ignore the intention behind the text of the Constitution, which is to not allow the nation to become a monarchy or dictatorial system akin to the European monarchies that the framers of the U.S. Constitution descended from. This Court must prevent the President's red ball cap from becoming the 21st century red coat. Such malfeasance could ignite a renaissance of colonial age monarchy in the United States.

Amicus urges this Court to overrule the President's executive order and rule that it is unconstitutional because the executive order violates the Fourteenth Amendment and because it violates Articles I and III because the President's executive order attempts to usurp judicial and legislative authority for the President. The Court should reaffirm that the only lawful way to effectuate modifications to the U.S. Constitution is through the procedures outlined in Article V. Finally, this Court should affirm that it will not serve as a rubber stamp or express ramp to approve the President's proposed unilateral modifications to the U.S. Constitution.

Respectfully submitted,

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