

IN THE
Supreme Court of the United States

DONALD J. TRUMP, PRESIDENT OF
THE UNITED STATES, *et al.*,
Petitioners,

v.

WASHINGTON, *et al.*,
Respondents.

DONALD J. TRUMP, PRESIDENT OF
THE UNITED STATES, *et al.*,
Petitioners,

v.

BARBARA, *et al.*,
Respondents.

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
AND CERTIORARI BEFORE JUDGMENT TO THE UNITED STATES
COURT OF APPEALS FOR THE FIRST CIRCUIT

**AMICUS CURIAE BRIEF OF CHRISTIAN
FAMILY COALITION OF FLORIDA (CFC), INC.
IN SUPPORT OF PETITIONERS**

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INTEREST OF AMICUS

Amicus is a non-profit Florida corporation representing over 500,000 Floridians and is dedicated to family values, religious freedom, and religious tolerance, as well as fellowship, social justice, respect for human life, brotherhood, and world peace. The religious freedom and religious tolerance to which Amicus is dedicated depends upon the culture that has prevailed in this country for much of its 250 years, and upon which this country was founded, but which is being eroded with an influx of religiously intolerant cultures whose illegal immigration and births are at dispute in this appeal. One need look no further than the surge in religious bias and anti-Semitism which has beset the country in recent years.¹

SUMMARY OF ARGUMENT

“The Constitution ... is not a suicide pact.” *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 160 (1963). Yet that is precisely what the Constitution would become if *en masse* births to illegal aliens and transient visitors were to trigger citizenship without restraint, limit, or regulation. It portends a security nightmare and an unrestrained influx of religious bias and intolerance alien to our basic principles.

1. No counsel or other representative or agent of any party in this case authored any part of this Amicus Brief or exercised any form of control or approval over it. No person or entity, aside from Amicus or its counsel, made a monetary contribution to the preparation or submission of this Amicus Brief. Counsel for all parties in both cases have consented to the filing of this Amicus Brief supporting the Petitioners, waiving the time period for notice under Rule 37.

From a legal standpoint, the requirement of permanent and legal residence for birthright citizenship under the Fourteenth Amendment is compelled not only by common sense, legislative intent, and birthright-citizenship precedent itself, *U.S. v. Wong Kim Ark*, 169 U.S. 649, 705 (1898) (“permanent residence and domicile in the United States”), but also by this Court’s jurisprudence which defines State citizenship for purposes of diversity jurisdiction in the federal courts – a topic untouched in the Petition. Both lines of precedent compel the same result.

ARGUMENT

1. The Petition comprehensively shows the need for legal and permanent residence in the United States as a prerequisite to birthright-citizenship under the Fourteenth Amendment. The Petitioners’ encyclopedic examination of precedent and legislative history compels the conclusion that legal and permanent residence is required. Amicus will not attempt to duplicate the excellent work in the Petition.

Rather, Amicus points out that the same result follows from a separate line of precedent – this Court’s jurisprudence defining State citizenship for purposes of diversity jurisdiction in the federal courts. This Court (and all Circuit Courts) consistently define State citizenship in diversity cases as a combination of U.S. citizenship and ***permanent residence*** in a State. *Sun Printing & Publishing Assoc. v. Edwards*, 194 U.S. 377, 382-383 (1904) (defendant who was “legally domiciled in the State of Delaware ... [and] a citizen of the United States ... [was] by operation of the 14th Amendment ... also a citizen of the State of Delaware”); *Anderson v. Watts*, 138 U.S. 694, 702

(1891) (State citizenship depends upon “citizens[hip] of the United States and ... permanent domicile in the State”); *Brown v. Keene*, 33 U.S. 112, 115 (1834) (“A citizen of the United States may become a citizen of that State in which he has a fixed and permanent domicile”) (Marshall, C.J.).

This diversity-of-citizenship precedent controls the present case. The State citizenship which requires permanent residence in diversity cases, *supra*, is the same State citizenship which follows from birthright status under the text of the Fourteenth Amendment (“citizens of the United States and of the State wherein they reside”). That is, permanent and legal residence is an essential prerequisite to birthright citizenship under the Fourteenth Amendment – by virtue of this Court’s diversity-jurisdiction jurisprudence. Illegal aliens, tourists and transients are excluded.

This is perfectly consistent with the requirement of permanent legal residence in birthright-citizenship precedent itself. *U.S. v. Wong Kim Ark*, *supra*, 169 U.S. at 705 (1898) (“permanent residence and domicile in the United States”). Both lines of precedent compel the same result.

2. In addition, the security and equity problems which follow from bestowing unconditional citizenship status on the U.S-born children of illegal aliens and temporary visa holders are a nightmare. Do the U.S.-born children of terrorists gain U.S. citizenship? – or the U.S.-born children of foreign gang members here illegally? Do the U.S.-born children of illegal aliens jump the line ahead of people who patiently comply with the immigration process? – or change immigration quotas carefully enacted

by Congress? The Fourteenth Amendment's benevolent intent to confer citizenship on freed slaves of African descent – all of whom were here legally and permanently – was never intended to benefit persons of temporary or illegal presence, let alone terrorists or criminals here illegally.

Nor was the Fourteenth Amendment intended to give foreign cultures and belief systems, which spew religious hatred and intolerance elsewhere in the world, an open door and foothold from which to spread their venom in the United States. Yet that is exactly what unrestrained birthright citizenship would foment, using their offspring born here as a foothold for spewing their poison. Congress and the Executive need the flexibility to maintain immigration controls which preserve the American culture of religious liberty and tolerance by denying more of a foothold for religious intolerance and bigotry than already exists. Unrestricted birthright citizenship defeats this interest. Nothing less than the American culture of religious freedom and tolerance is at stake. The Constitution was never intended to beget a Trojan Horse of religious intolerance under the guise of birthright citizenship. “The Constitution ... is not a suicide pact.” *Kennedy v. Mendoza-Martinez*, *supra*, 372 U.S. at 160 (1963).

CONCLUSION

This Court should grant the Petitions in both cases, reverse the judgments of the Ninth Circuit and U.S. District Court, uphold the validity of the Executive Orders at issue, and order the complaints dismissed with prejudice in both cases.

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Respectfully submitted,

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