No. 25-365

IN THE

Supreme Court of the United States

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

Petitioners,

v.

BARBARA, *et al.*,

Respondents.

ON WRIT OF CERTIORARI BEFORE JUDGMENT TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

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

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INTEREST OF AMICUS

Amicus Christian Family Coalition (CFC) Florida, Inc., 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 of religious tolerance in the society at large, but which is under attack. Birthright citizenship without limit for illegal aliens and transients begets a foothold for other cultures espousing religious intolerance and bigotry. One need look no further than the surge in religious bias and anti-Semitism which has plagued the country in recent years.[1]

SUMMARY OF ARGUMENT

Allowing birthright citizenship for the offspring of illegal aliens and transients violates this Court's precedent which defines the diversity jurisdiction of the federal courts. The requirement of permanent and legal residence for State citizenship in diversity cases applies equally to birthright citizenship. The two concepts are inextricably bound together (pp. 2-4 *infra*).

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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.

Unlimited birthright citizenship also contravenes other constitutional precepts. "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 by illegal aliens and transients in the United States were to trigger citizenship without restraint, limit, or regulation. Such unrestrained birthright citizenship is a Trojan Horse of religious intolerance – a runaway security nightmare which undermines Congressional control of immigration with a limitless and unrestrained influx of cultures alien to basic principles of free speech and religious tolerance and openly hostile to the United States.

ARGUMENT

1. Under the Fourteenth Amendment, the Long-Standing Requirement of Permanent and Legal Residence for State Citizenship in Diversity Cases Compels an Identical Requirement for Birthright Citizenship

Long-standing Fourteenth Amendment precedent defining State citizenship in diversity-jurisdiction cases applies to birthright status as well. Both are controlled by the Fourteenth Amendment. Both have the same requirement of permanent and legal residence.

In diversity-jurisdiction cases, permanent and legal residence in a State is a prerequisite for State citizenship. *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 same requirement of permanent and legal residence controls birthright citizenship. The State citizenship which requires permanent residence in diversity cases, *id.*, is the same State citizenship which follows from birthright status under the Fourteenth Amendment ("citizens . . . of the State wherein they reside"; U.S.Const., 14th Amend. §1). Thus permanent and legal residence is a requirement for birthright status under the Fourteenth Amendment – by virtue of the same requirement for State citizenship in this Court's diversity jurisprudence.

In short, because the Fourteenth Amendment which defines State citizenship in diversity cases also defines State citizenship arising from birthright status ("citizens . . . of the State wherein they reside"), the requirement for permanent and legal residence in the former necessarily governs the latter. The long-standing requirement of permanent and legal residence for State citizenship in diversity cases controls birthright citizenship as well. Illegal aliens, tourists, and transients are excluded.

This result is perfectly consistent with the requirement of permanent legal residence in birthright-citizenship precedent itself. *U.S. v. Wong Kim Ark*, 169 U.S. 649, 705

(1898) ("permanent residence and domicile in the United States"). Both lines of precedent compel the same result.

2. The Doctrine of Party Presentation Does Not Preclude This Court From Adopting Amicus's Argument Even Though Petitioners Never Made It

Even though Petitioners never made the present argument involving this Court's diversity jurisdiction, this Court may use the argument to reverse the decision below. There is no violation of the doctrine of Party Presentation.

The doctrine of Party Presentation bars Courts from asserting entirely ***new claims*** never raised by the parties. The doctrine does not bar new arguments in support of existing claims. Amicus merely offers a new argument in support of Petitioners' existing claim – that birthright citizenship under the Fourteenth Amendment requires a permanent and legal residence in the United States.

For examples of the doctrine of Party Presentation which prohibits Courts from raising entirely new claims, *see Clark v. Sweeney*, 2025 WL 3260170 at *1 (U.S., Nov. 24, 2025) (Court may not substitute entirely new claims based on denial of confrontation and lack of impartial jury in place of party's claim based solely on ineffective assistance of counsel); *U.S. v. Sineneng-Smith*, 590 U.S. 371, 377-380 (2020) (Court may not substitute entirely new claim based on constitutional overbreadth in place of party's claims based solely on statutory interpretation and Free Speech violation). *Compare Hemphill v. New York*, 595 U.S. 140, 149 (2022) (contrasting "new argument" from "new claim" and permitting new argument in support of

existing claim of confrontation denial). Amicus simply asserts a new argument in support of Petitioners' existing claim.

In addition, deference to a coordinate branch of Government requires that Courts uphold Executive Orders wherever possible, by permitting every conceivable argument to sustain them. *Trump v. International Refugee Assistance Project*, 582 U.S. 571, 580-583 (2017) (consideration of numerous arguments to support Executive Order); *Dames & Moore v. Regan*, 453 U.S. 654, 669-672 (1981) (permitting broad array of arguments to sustain Executive Order); *U.S. v. Pink*, 315 U.S. 203, 227-232 (1942) (broad reach of arguments used to sustain Executive Order); *cf. I.N.S. v. St. Cyr*, 533 U.S. 289, 300 (2001) (consider numerous arguments to uphold law if "fairly possible").

In short, without violating the doctrine of Party Presentation, Amicus's argument may sustain the Executive Orders at issue even though Petitioners never asserted it. Amicus does not assert new claims but only a different argument in support of the claim Petitioners already made. In addition, due respect for a coordinate branch of government compels allowance of any argument to sustain the Executive Orders at issue.

3. The Common-Sense Need for Physical Security and Protection of Basic American Freedoms Including Religious Liberty and Tolerance Precludes Unrestrained and Limitless Birthright Citizenship

The security and equity problems which follow from limitless and unconditional citizenship status on the

U.S-born children of illegal aliens and transients 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, an open door and foothold from which to spread bigotry in the United States. Yet that is exactly what unrestrained birthright citizenship would foment, using their children born here as a foothold for spewing religious intolerance.

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 imported religious bigotry than already exists. Unrestricted birthright citizenship defeats this interest. Nothing less than the American culture of religious liberty 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 reverse the judgment of the District Court, uphold the validity of the Executive Orders at issue, and order the complaint dismissed with prejudice.

Dated: January 27, 2026

Respectfully submitted,

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