

One Minute Memo®



Trump's Third Travel Ban Suspended In Part

By Edward Farwell, Gabriel Mozes, and Michelle Gergerian

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Seyfarth Synopsis: Federal judges in Hawaii and Maryland have issued orders blocking major portions of President Trump's September 24, 2017 Presidential Proclamation.

The Presidential Proclamation is the third in a series of executive actions ostensibly aimed at protecting the U.S. from terrorism and other national security threats through barring or limiting U.S. travel for nationals of eight countries. The first such action, published on January 27, 2017, was revoked in the wake of several successful legal challenges. It was replaced on March 6, 2017 with a more narrowly tailored version. Challenges to this second version prevailed in Hawaii Federal District Court and also before the Ninth Circuit, and they are now being considered at the Supreme Court.

On October 17, 2017, just one day before the Presidential Proclamation was set to take effect, a federal judge in Hawaii called into question the Trump administration's claim that it will enhance national security. The judge accordingly ruled that the plaintiffs' challenge to the Proclamation will likely prevail. He further found that, unless enjoined, the Proclamation will cause the plaintiffs to suffer irreparable harm in the form of familial separation, loss of access to potential foreign students who would attend schools in Hawaii, and diminished vibrancy at Muslim religious associations within the state.

In the early morning hours of October 18, 2017, a federal judge in Maryland also ruled that the plaintiffs are likely to prevail, would suffer irreparable harm, and further opined that the Proclamation amounted to an unconstitutional Muslim ban. The judge pointed to several of President Trump's disparaging campaign speeches and tweets concerning Muslim immigrants to support his conclusion.

As a result of the rulings in Hawaii and Maryland, all U.S. travel restrictions imposed against nationals of Iran, Libya, Yemen, Chad, Somalia, and Syria have been lifted. However, as the restrictions applicable to nationals of Venezuela and North Korea were not challenged in either Hawaii or Maryland, they remain intact.

The Trump administration has signaled that it will challenge these decisions and further developments will likely emerge rapidly. Individuals from restricted countries who are considering travel to or from the U.S. should exercise caution and should anticipate increased screenings, potential delays, or even refusal of admission.

If you would like further information, please contact [Edward Farwell](mailto:efarwell@seyfarth.com) at efarwell@seyfarth.com, [Gabriel Mozes](mailto:gmozes@seyfarth.com) at gmozes@seyfarth.com, or [Michelle Gergerian](mailto:mgergerian@seyfarth.com) at mgergerian@seyfarth.com.

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Seyfarth Shaw LLP One Minute Memo® | October 18, 2017

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