



Supreme Court Resurrects Travel Ban 3.0 During Appeal

Insights

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By: The Editor

The Supreme Court just permitted the president's latest travel ban – dubbed [Travel Ban 3.0](#) – to be fully implemented while the litigation regarding the policy proceeds through the federal appellate court system. The Court's December 4 ruling is the latest twist in the saga that currently impacts the residents of six predominantly Muslim countries.

Travel Ban 3.0 was signed on September 24 and was set to go into effect in mid-October. This version bars entry to individuals from Syria, Libya, Iran, Yemen, Chad, and Somalia. But on October 17, on the eve of implementation, a judge from Hawaii's federal district court [granted a motion for a temporary restraining order](#) that barred the federal government from enforcing the ban from taking effect. In his ruling, Judge Derrick K. Watson bluntly stated that Travel Ban 3.0 “plainly discriminates based on nationality in the manner that the 9th Circuit has found antithetical to both the Immigration and Nationality Act and the founding principles of this Nation.”

Yesterday, the Supreme Court essentially shelved Judge Watson's decision with a brief but to-the-point order. The order indicated that the lower court's injunction is “stayed pending disposition of the Government's appeal,” which will be first entertained at the appeals court level and could soon head before the Supreme Court for a ruling on the merits. The Court urged the lower appeals court to “render its decision with appropriate dispatch,” which means we should see the appeal play out rather quickly. If the decision once again reaches the Supreme Court, the order indicates that the stay will remain in effect until the Court enters a final ruling – which means the travel ban could remain in place for some time.

There had been an open question about whether travelers with “bona fide” familial relations in the United States would be covered by the travel ban and barred from entry; it appears from the Supreme Court's decision that no such exemption exists, and that the decision will be applied in a blanket form to individuals from the affected countries. If your business is impacted by this latest decision, you can reach out to any member of our [Global Immigration Practice Group](#) for advice and counsel.