



## Birthright Citizenship Remains the Law: Trump's Attack on Families and Democracy Is Unconstitutional and Unlawful

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### Background on the Unlawful Executive Order



On January 20, 2025, Trump issued Executive Order 14160. The Executive Order attempted to deny citizenship to U.S.-born babies based on their parents' immigration status. While the executive order directly targeted children born to parents who are neither U.S. citizens nor legal permanent residents, **the harms of restricting birthright citizenship would have been far-reaching**, impacting all Americans, immigrants and citizens alike.

Multiple lawsuits were filed to challenge Executive Order 14160, including the class action lawsuit *Barbara v. Trump*, on which Asian Law Caucus served as co-counsel, which the Administration appealed to the Supreme Court after the federal district court issued an injunction barring the Administration from enforcing the Executive Order against a nationwide class.

### What you should know about the Supreme Court decision in *Barbara*:



**Every child born on U.S. soil is a citizen from the moment of birth, no matter their parents' immigration status.** Executive Order 14160 is invalid, has no force or effect, and will not be implemented. Parents can apply for a U.S.-born child's Social Security number and passport without needing to show proof of a parent's U.S. citizenship or immigration status.



On June 30, 2026, the Supreme Court struck down Executive Order 14160 by a 6-3 vote and five justices held that the **14th Amendment itself guarantees birthright citizenship**. That means Congress cannot undo it by passing a law. The only way to change it is a constitutional amendment and that requires two-thirds of both the House and Senate to propose it, then three-fourths of the states to ratify it.



**The administration will continue to pursue efforts to limit access to citizenship.** The Department of Justice has directed federal prosecutors to pursue visa fraud cases. We are watching closely and will challenge any measure that misuses fraud laws to target families or achieve through prosecution what the Court just said the Constitution forbids.

## ***Barbara v. Trump: How the Justices Ruled***

The Court's 6-3 ruling included a 5-justice majority, Chief Justice Roberts, joined by Justices Sotomayor, Kagan, Barrett, and Jackson holding that the 14th Amendment itself guarantees birthright citizenship, in line with *United States v. Wong Kim Ark* (1898) and 128 years of settled law.

Justice Kavanaugh provided the sixth vote to strike down the order, but on narrower grounds: he found it violated federal statute, not the Constitution itself. He made clear he wants Congress to legislate new limits on birthright citizenship. The majority rejected that view. Because the majority held the 14th Amendment itself guarantees this right, Congress cannot legislate it away only a constitutional amendment can.

Justice Thomas dissented, joined by Justice Gorsuch. Justice Alito dissented separately. Their dissents would have stripped citizenship from children born to parents who are undocumented or here temporarily, abandoning *Wong Kim Ark* and embracing a reading of the 14th Amendment no Supreme Court has accepted in over a century. It is a stark reminder of how far some justices are willing to go to rewrite who counts as American. The majority did not let that argument prevail. Justice Jackson separately authored a concurrence to address the revisionist history presented in the dissents.

The Constitution's promise held, and birthright citizenship remains the law of the land.

### **Birthright citizenship has been protected, but our fight continues.**

Birthright citizenship is a widely-popular policy and accepted principle among Americans. While Americans celebrate the victory in *Barbara*, we must stay vigilant: this fight is part of a broader pattern from a \$70 billion expansion of immigration enforcement to limiting access to the ballot box. When we stand together, we can successfully defend our rights and create positive change for everyone.

**At the Asian Law Caucus, our work continues.** We invite you to stay connected:

- View our [know-your-rights explainer on birthright citizenship](#). If you have questions about the *Barbara* decision, you can submit them through [this form](#).
- Share this and other resources with your family, friends, and organizational supporters. View our [toolkit here](#).