

Hawaii Federal Court Temporarily Blocks March 6 Executive Order Travel Ban

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The new immigration "travel ban" executive order signed by U.S. President Donald Trump on March 6, 2017 was to take effect on March 16. However, on March 15 the new order was temporarily blocked by a federal district court in Hawaii, which granted a motion for a temporary restraining order. The court's injunction applies nationwide.

The government is expected to appeal, but in the meantime the executive order cannot take effect as planned. The federal court held that the plaintiffs had a strong case that the March 6 executive order, like the original January 27 order, violated the Constitution's First Amendment freedom of religion clause by disfavoring Muslims. In reaching that conclusion, the court looked beyond the text of the executive order to statements made by President Trump and his advisors in favor of a Muslim immigration ban.

Several other states also filed or joined legal challenges against the new travel ban order, including California, Massachusetts, New York, Oregon, Virginia, Washington, and Wisconsin. Also, several refugee rights groups, along with the American Civil Liberties Union and the National Immigration Law Center, filed challenges in Maryland. Decisions on those filings are pending.

A Summary of the March 6 Executive Order

- The new list of countries on a "temporary pause" for entry of their nationals to the United States included Iran, Libya, Somalia, Sudan, Syria and Yemen, but did not include Iraq, which the order says "presents a special case."
- The order notes that "[d]ecisions about issuance of visas or granting admission to Iraqi nationals should be subjected to additional scrutiny to determine if applicants have connections with ISIS or other terrorist organizations, or otherwise pose a risk to either national security or public safety."
- The new list of countries is "subject to categorical exceptions and case-by-case waivers," the order states.
- The order makes an exception for nationals of the countries on the banned list who had a valid visa at certain specified times and dates; are permanent residents; have other valid travel documents; are dual nationals who are traveling on a passport issued by a non-designated country; are traveling on a diplomatic visa; have been granted asylum; are in refugee status and have already been admitted to the United States; or have been granted withholding of removal, advance parole, or protection under the Convention Against Torture.
- The order lists examples of possible discretionary waiver cases, such as returning students in an ongoing program of study, and calls for a review of all nonimmigrant visa reciprocity agreements and arrangements, among other things.