

President Trump Vows to Continue Fighting for His Refugee Executive Orders

Following perhaps one of the most feckless defenses by a government attorney in the history of the federal court system, the 9th Circuit Court of Appeals decided unanimously to uphold a Washington judge's stay on President Donald Trump's executive orders to temporarily halt the federal refugee program and immigration from seven countries.

The court's decision stated:

At issue in this emergency proceeding is Executive Order 13769, "Protecting the Nation From Foreign Terrorist Entry Into the United States," which, among other changes to immigration policies and procedures, bans for 90 days the entry into the United States of individuals from seven countries. Two States challenged the Executive Order as unconstitutional and violative of federal law, and a federal district court preliminarily ruled in their favor and temporarily enjoined enforcement of the Executive Order. The Government now moves for an emergency stay of the district court's temporary restraining order while its appeal of that order proceeds.

To rule on the Government's motion, we must consider several factors, including whether the Government has shown that it is likely to succeed on the merits of its appeal, the degree of hardship caused by a stay or its denial, and the public interest in granting or denying a stay. We assess those factors in light of the limited evidence put forward by both parties at this very preliminary stage and are mindful that our analysis of the hardships and public interest in this case involves particularly sensitive and weighty concerns on

both sides. Nevertheless, we hold that the Government has not shown a likelihood of success on the merits of its appeal, nor has it shown that failure to enter a stay would cause irreparable injury, and we therefore deny its emergency motion for a stay.

The president's reaction on Twitter was as predictable as it was immediate:

"SEE YOU IN COURT, THE SECURITY OF OUR NATION IS AT STAKE!"

Having the night to think it over (and to read the entire opinion for himself), Trump added Friday morning:

"LAWFARE: 'Remarkably, in the entire opinion, the panel did not bother even to cite this (the) statute.' A disgraceful decision!"

The president's next stop is likely the Supreme Court, but it will be the first time he's able to do it with his own attorney general in place, although much of the Department of Justice is still filled with people hired by presidents Barack Obama and George W. Bush. The position of solicitor general is currently being held by Deputy Solicitor General Noel Francisco—who clerked for the late Associate Justice Antonin Scalia and worked as Associate White House Counsel to President Bush—until it is filled by Trump. {eoa}