No. 24A885

In the Supreme Court of the United States

DONALD J. TRUMP, ET AL.,

APPLICANTS,

V.

STATE OF WASHINGTON, ET AL.

RESPONDENTS.

ON APPLICATION FOR PARTIAL STAY OF THE INJUNCTION ISSUED BY THE U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON

Individual Plaintiffs' Response to Application for a Partial Stay

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Matt Adams
Counsel of Record
Glenda M. Aldana Madrid
Leila Kang
Aaron Korthuis
NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Avenue, Suite 400
Seattle, WA 98104
(206) 957-8611
matt@nwirp.org

Counsel for Individual Plaintiffs

INDIVIDUAL PLAINTIFFS' RESPONSE TO DEFENDANTS' APPLICATION FOR A STAY OF THE INJUNCTION INSSUED BY THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON

Individual Plaintiffs now respond to Defendants-Applicants' request for a partial stay of the nationwide preliminary injunction issued by the U.S. District Court for the Western District of Washington. Defendants ask this Court to "'restrict the scope' of the multiple preliminary injunctions that 'purpor[t] to cover every person * * * in the country,' limiting those injunctions to parties actually within the courts' power." App. for Stay 1-2 (citation omitted). Defendants do not ask this Court to revoke the injunction with respect to Individual Plaintiffs, as Defendants have conceded in the underlying proceedings that Individual Plaintiffs have standing to bring forward this challenge and do not contest that they face irreparable harm. But lifting the injunction will result in immediate, irreparable harm to putative class members who are similarly situated to Plaintiffs and the growing number of babies born to them every day. Individual Plaintiffs thus urge the Court to reject Defendants' application, and allow "the injunctions to remain in place . . . with respect to parties similarly situated." *Trump v. Int'l Refugee Assistance Project*, 582 U.S. 571, 582 (2017) (allowing injunctions to remain in effect for similarly situated parties in absence of class certification); *id.* at 585 (Scalia, J., concurring in part and dissenting in part) (noting "[n]o class has been certified").

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On January 24, 2025, pregnant mothers Cherly Norales Castillo and Alicia Chavarria Lopez (Individual Plaintiffs) filed a putative class action in the Western District of Washington, challenging President Trump's Executive Order 14160, 90 Fed. Reg. 8449 (Jan. 20, 2025) (EO), entitled "Protecting the Meaning and Value of

American Citizenship." App. 7a. Individual Plaintiffs feared that their children would be deemed undocumented upon birth under the EO, as neither they nor their partners are U.S. citizens or lawful permanent residents.

On January 27, Individual Plaintiffs filed a motion for class certification, with a proposed class of pregnant persons and future children residing in Washington State. *Id*. That same day, the district court consolidated their case with a related action filed by the states of Washington, Arizona, Illinois, and Oregon (Plaintiff States). *Id.* Individual Plaintiffs subsequently filed a supplemental preliminary injunction motion, which also requested provisional class certification *Id.* Following briefing and arguments by the parties, on February 6, the district court issued an order granting Individual Plaintiffs' and Plaintiff States' motions for preliminary injunctive relief. *Id.* at 5a. However, the district court did not grant provisional class certification or preliminary injunctive relief on behalf of the proposed class, instead granted the Plaintiff States' request for a nationwide injunction. *Id.* at 16a-17a.

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Defendants immediately filed an appeal to the Ninth Circuit Court of Appeals. *Id.* at 18a. The district court then stayed all proceedings, including Individual Plaintiffs' pending motion for class certification and their request for preliminary injunctive relief on behalf of the class, pending the resolution of Defendants' appeal of the preliminary injunction to the Ninth Circuit. Consequently, the putative class members that Individual Plaintiffs seek to

represent are currently protected only by the nationwide injunction issued by the district court.

Notably, Defendants have expressly declined to contest the lower court's ruling that Plaintiffs are likely to succeed on the merits. *See* App. to Stay at 16-38 (requesting only that the Court limit the injunctions' scope to named parties). This matters, as "[c]rafting a preliminary injunction is an exercise of discretion and judgment, often dependent as much on the equities of a given case as the substance of the legal issues it presents." *Int'l Refugee Assistance Project*, 582 U.S. at 579. By declining to contest the merits, Defendants put their eggs in one basket, asserting that as a matter of remedies, a nationwide injunction is inappropriate. Courts, however, may "may mold [their] decree[s] to meet the exigencies of the particular case." *Id.* at 580 (citation omitted). And in assessing whether a stay is appropriate, this Court is similarly called on to "balance the equities—to explore the relative harms to applicant and respondent, as well as the interests of the public at large.'" *Id.* (alterations in original) (citation omitted).

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Individual Plaintiffs respectfully submit that the exigencies and equities here are exceptional, and that the district court did not abuse its discretion in issuing the nationwide injunction. Absent the nationwide injunction, the district court would need to address Plaintiffs' motion for class certification and then issue corresponding preliminary injunctive relief for the proposed class. However, the district court reasonably stayed all pending motions after Defendants filed an immediate appeal to the court of appeals, just as they have done in the parallel

cases now before this Court on similar applications for a stay. Given the weighty matters at issue, it was imminently reasonable for the district court to stay the underlying proceedings pending the immediate appeal that was filed in this case.

The preliminary injunction rightly maintains the status quo that has governed birthright citizenship for over 125 years. *See, e.g.*, *United States v. Wong Kim Ark*, 169 U.S. 649 (1898); *Legislation Denying Citizenship at Birth to Certain Children Born in the United States*, 19 Op. O.L.C. 340 (1995). Notably, before the court of appeals, Defendants-Applicants' do not even contest that Individual Plaintiffs face irreparable harm. Nor could they meaningfully do so, as no adequate legal remedy exists for the loss of the "priceless benefits that derive from [citizenship]." *Schneiderman v. United States*, 320 U.S. 118, 122 (1943). The EO's directive to strip persons of birthright citizenship amounts to "the total destruction of the individual's status in organized society" and constitutes "a form of punishment more primitive than torture." *Trop v. Dulles*, 356 U.S. 86, 101 (1958). This is similarly true for proposed class members. *Int'l Refugee Assistance Project*, 582 U.S. at 582.

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This Court affirmed the breadth of the Citizenship Clause in *Wong Kim Ark*, over 125 years ago. Given that for well over a century it has been black letter law that persons like the children of Individual Plaintiffs and proposed class members born in the United States are entitled to citizenship under the Fourteenth Amendment, the district court had an ample basis to issue its preliminary injunctive order. Defendants will have an opportunity to fully present their

argument in the litigation ongoing before the courts of appeals. But in the meantime, Defendants' challenge to the status quo implicates the "very nature of our free government," at the core of this Country's democracy. *Afroyim v. Rusk*, 387 U.S. 253, 268 (1967) Upsetting that status quo—which is what a preliminary injunction is designed to protect—would simply allow "a group of citizens temporarily in office [to] deprive another group of citizens of their citizenship," the very thing against which the Fourteenth Amendment was designed to protect. *Id.* For these reasons, the Court should preserve the status quo and maintain the nationwide injunction while Defendants' challenge works its way through the lower courts.

For all these reasons Individual Plaintiffs respectfully request that this Court deny Defendants-Applicants' application for a partial stay of the preliminary injunction.

/s/ Matt Adams
Matt Adams
Counsel of Record
Glenda M. Aldana Madrid
Leila Kang
Aaron Korthuis
NORTHWEST IMMIGRANT RIGHTS PROJECT
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