

## **The U.S. Supreme Court Allows Travel Ban 3.0 To Go Into Effect While Legal Challenges To The Ban Proceed Through The Lower Courts**

Dear members and friends,

Unfortunately, yesterday (December 4), the U.S. Supreme Court lifted the stays on the Trump Administration's Travel Ban 3.0, allowing it to go into effect *in its entirety* while the legal challenges to Travel Ban make their way through lower courts. The ruling is extremely disappointing, and clearly a setback to those challenging the Travel Ban, especially given President Trump's ongoing comments and communications evincing his discriminatory intent. But it is important to note that today's ruling *does not decide whether the Travel Ban is lawful*. That issue remains very much in dispute, and [IABA - with its coalition partners, Pars Equality and PAAIA - have vowed to continue the fight to overturn the Travel Ban](#), as have our allies in the fight.

In light of this ruling, individuals with valid visas may very well be denied entry into the U.S. in the upcoming weeks, and those who were in the process of obtaining a visa may have their applications held or terminated. If you know anyone who is affected by Travel Ban 3.0 -- including those with valid visas who are denied entry, or whose visas have been revoked -- [please contact us immediately by clicking here and filling out our form](#). With your help, we will continue to fight to protect the rights of our community members, and those of many others, who are affected by this Travel Ban.

We provide you with a more detailed overview of the current situation below:

## **Is the Ruling on a Preliminary Injunction Different From a Ruling on the Merits?**

Yes. A preliminary injunction is, in essence, an emergency mechanism that can stay (pause) an action, while the merits of that action are being decided. Given its extraordinary nature, the standard required for a preliminary injunction is high. This standard is not necessary to the underlying question of whether the Travel Ban violates the constitution or statutory law. So a ruling on the preliminary injunction is not necessarily the same as a ruling on the merits (though there can be overlap).

## **What Did the Supreme Court Rule?**

The Supreme Court determined that Travel Ban 3.0 should not have been enjoined (paused) with a preliminary injunction while the legal challenges to it are still pending in the lower courts. So the Supreme Court allowed the Travel Ban to go into effect while the lower courts go through the "regular process" to determine it is lawful. But the Supreme Court also urged the lower courts to address the merits as quickly as possible, so that it could (if appropriate) consider the case on its merits.

While the fight is far from over, there is little question that this ruling is a setback. In June, the Supreme Court upheld the injunctions on Travel Ban 2.0 for individuals with a "bona fide relationship" with an U.S. person or entity. The new Supreme Court ruling seems to back away from the standard they set only a few months ago. The Court's one-page orders did not provide any explanation for this change in position.

## **What Does the U.S. Supreme Court's Ruling Mean and How Does It Affect You?**

In sum, the Supreme Court ruling means that the Trump Administration can (for now) restrict travel of the foreign nationals from Iran and seven other nations (Libya, Syria, Yemen, Somalia, Chad, North Korea, and Venezuela), the vast majority of which are from Muslim majority

countries, to varying degrees. For Iranians, this Travel Ban *permanently* prohibits emigration into the U.S., other than for student visas. The ban does not apply U.S. citizens, permanent residents, and certain dual nationals.

The Travel Ban also states that it does not apply to individuals who were in the U.S., or who already had valid visas, on the "effective date" of the ban: i.e. as of September 24, 2017 for those *without* a "bona fide relationship;" and October 18, 2017 for those *with* a "bona fide relationship." For these individuals, the Travel Ban should still not apply, by its own terms. However, as of now, there is uncertainty about the "effective date" for any visas issued between September 24/October 18 to the present (i.e. during the "injunction period"). The Trump Administration may still consider the "effective date" to be the original dates in the Travel Ban (September 24/October 18), or it may decide that the effective date will be the day the Supreme Court lifted the injunctions and allowed the Travel Ban to proceed (or another date chosen by the administration).

*Practically, this means that people who have been issued valid visas as of September 24 or October 18 (depending on whether they had a "bona fide relationship") may be denied entry into the U.S. despite having valid visas. It also means that individuals in the process of obtaining a visa may not be placed on hold, or have those applications terminated. If you know anyone affected by the Travel Ban, [please click here](#).*

Sadly, this legal "back and forth" will almost certainly create confusion in issuance of visas to, and entry of, Iranians and other nationalities affected by the Travel Ban. Thus, whether intended or not, these decisions will have the side effect of reducing such travel, which unfortunately advances President Trump's original discriminatory goals. Nevertheless, in light of the current situation, Iranians seeking immigrant and non-immigrant visas to the U.S. (other than student visas) should seriously consider delaying such applications until the legality of the Travel Ban is decided.

The situation is highly fluid and will likely change rapidly in the next few days and weeks. We will continue to provide you with information as quickly as we can. And in the interim, we vow to continue this fight on behalf of the Iranian American community and others, with both our coalition partners and other allies. If you're interested in helping our efforts, please:

1. Notify us, by [clicking here and filling out this form](#), if you know anyone who continues to be affected by Travel Ban 3.0;
2. [Donate to IABA](#) so it can continue its efforts in protecting our rights.
3. Donate your time or expertise, especially in the areas of immigration law by contacting us at [iaba@iaba.us](mailto:iaba@iaba.us); and
4. Share this statement with as many friends, families, and colleagues as possible to help us spread the word.

Please stay tuned and, more importantly, remain engaged.

Sincerely,

Babak Yousefzadeh  
IABA National President