

Birthrights and wrongs about U.S. citizenship

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It was no surprise that the Supreme Court struck down President Trump's executive order denying citizenship to children born in the U.S. to parents who were here illegally or were birthright tourists visiting the country on a temporary visa. The latter group is made up of foreigners who game the system by coming here for the sole purpose of birthing a child (or twins) to get the kid(s) U.S. citizenship, then returning home with their anchor baby for future use.



While I agree with Trump's intent, doing this with an executive order clearly overstepped his bounds and was easily nixed by the Supremes. An act of Congress is required which Democrats would certainly have blocked. Nonetheless, by taking the case, it gave SCOTUS, with a 6-3 majority of conservative justices, an opportunity to also make a judgment on the matter of birthright citizenship. This has been a debatable issue with laws and court precedents going back and forth for two centuries. There's precedent in taking either side. Unfortunately, perhaps with misguided honorable intentions, Chief Justice John Roberts and Amy Coney Barrett couldn't bring themselves to take the decisive option and join their conservative colleagues to resolve the issue and voted with the three leftist, "living- Constitution" justices who favor open borders and have little allegiance to original intent.

Roberts and Coney ignored other valid arguments and centered their case on a controversial interpretation of the Fourteenth Amendment and a claim that the nation's founders adopted British common law basing citizenship on the "soil," jus soli, the place where a child was born. Some founders agreed, some didn't, but virtually all rejected the British form of government which led to the Revolutionary War. The majority ruling leaned on the 1898 case of Wong Kim Ark in which the court asserted U.S. citizenship for a man born to Chinese resident aliens in the U.S. who were lawfully here but not U.S. citizens and were subjects of the Emperor of China. So, the Wong ruling shouldn't pertain

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Clarence Thomas's 91-page dissent argued that some jurists have historically misapplied the Fourteenth Amendment which was specifically designed to secure equal rights for freed blacks after the Civil War. Thomas declared, "The Court has repurposed the Fourteenth Amendment to protect its own

Note

set of preferred rights that the Reconstruction Congress never contemplated and that cannot find support in its text. Today, the Court does so again by recognizing a constitutional right to citizenship for the children of all foreign birth tourists and illegal aliens."

Its "Citizenship Clause" reads: "All persons naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and the state wherein they reside." As it applies to foreigners that key phrase, "subject to the jurisdiction thereof," doesn't just mean subject to our laws. The framers of the amendment intended that allegiance to the U.S. be exclusive and to no other country. Foreign tourists legally or illegally in the U.S. are subject to our laws but not our political jurisdiction. They owe no allegiance to the U.S. and their children born here should have no automatic right to American citizenship. Note

The same Congress that crafted the Fourteenth Amendment in 1866 also passed a civil rights law in 1868 restricting American citizenship to those born here and "not subject to any foreign power." In that law, Rep. John Bingham of Ohio (who also authored the Fourteenth Amendment) confirmed that "Every human being born within the jurisdiction of the United States of parents not owing allegiance to any foreign sovereignty is, in the language of your Constitution itself, a natural born citizen." That right was not granted to foreign visitors legally or illegally present in our country. Note

Unlike the millions of foreigners who have entered our country illegally in recent years, illegally overstayed their visas, or failed to show up for their mandated asylum hearing, the flood of immigrants who came to these shores during our nation's founding weren't here illegally. For today's foreigners, U.S. citizenship is a privilege that may be earned but is not a right. This latest SCOTUS ruling was wrong again but may not be the last word. In his dissent, Justice Kavanaugh wrote that Congress has the latitude to add new exceptions that respond to modern problems like illegal immigration. We'll see.