



# WEIL'S SCOTUS TERM IN REVIEW

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## Supreme Court Ends “Universal” Injunctions

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Today, the Supreme Court held 6-3 in *Trump v. CASA, Inc.* that federal district courts generally lack the power to issue “universal” injunctions. The case has broad repercussions for challenges to federal programs, which in recent years have often triggered universal injunctions (sometimes called “nationwide” injunctions) binding the government’s conduct towards numerous non-parties. The Supreme Court did not pass on the merits of President Trump’s Executive Order purporting to end birthright citizenship, which was the subject of the challenged injunctions. Instead, the Court addressed only the propriety of issuing universal relief.

The decision puts to rest a long-running debate about the propriety of universal injunctions. A universal injunction binds the government’s conduct towards the entire public rather than to any particular named party. In recent years, district courts have often issued universal injunctions in high-stakes litigation challenging federal statutes or executive actions. This practice has prompted significant criticism by every recent Administration (Obama, Trump I, Biden, and Trump II)—as well as by several Justices of the Supreme Court—that individual district court judges lack such sweeping nationwide power. That criticism has now been vindicated by a majority opinion of the Supreme Court.

This particular case arose in response to President Trump’s Executive Order purporting to end birthright citizenship, No. 14160, *Protecting the Meaning and Value of American Citizenship*. Several individuals challenged the Executive Order in district courts, arguing that it violated the Fourteenth Amendment’s Citizenship Clause and the Nationality Act of 1940. In another suit, New Jersey and a group of states raised a similar challenge. After concluding that the order was likely unlawful, the district courts in these cases swiftly entered universal injunctions preventing executive officials from enforcing the order against anyone in the country. The courts of appeals denied the government’s applications for partial stays. The government then sought emergency relief from the Supreme Court. Notably, the government did not ask the Supreme Court to review the merits of birthright citizenship. The government only sought to narrow the scope of the injunctions, to end their universal character, and to limit them to the parties.

In a 6-3 opinion authored by Justice Barrett, the Court sided with the government, squarely rejecting district courts' authority to issue universal injunctions. The Court instead made clear that district courts could issue nationwide relief only (1) pursuant to Rule 23 and its procedures for class certification; or (2) if such relief is necessary to provide the named plaintiff with complete relief. Justice Barrett emphasized that those requirements cannot be circumvented.

Justice Barrett reached that conclusion by looking to federal courts' equitable jurisdiction. Congress, through the Judiciary Act of 1789, gave the federal courts jurisdiction over all cases "in equity," which the Court has held encompasses only the equitable remedies traditionally issued by courts of equity at the time of our country's founding. Justice Barrett explained that neither the universal injunction nor any other analogous form of equitable relief was available at that time. Rather, suits and remedies were "party specific" and could not bind non-parties. Federal courts in the early days of the republic frequently declined to extend equitable relief beyond the parties, and universal injunctions did not arise until sometime in the twentieth century. The Court concluded that because the universal injunction has no "founding-era antecedent," Congress did not grant the federal courts jurisdiction to issue such a remedy through the Judiciary Act of 1789.

The Court recognized that district courts could award classwide relief under Rule 23, but the plaintiffs in these cases had not invoked Rule 23. The Court also recognized that courts may fashion remedies as necessary to provide complete relief to the named

parties, including sometimes by binding a defendant's conduct towards non-parties. The Court found that universal relief was clearly not needed to provide complete relief to the individual plaintiffs, because they could obtain complete relief with an injunction providing that their own children would retain birthright citizenship. The Court remanded to the lower courts to resolve whether nationwide relief was necessary to provide complete relief to New Jersey and the other States, who had disputed the issue.

Justice Thomas, joined by Justice Gorsuch, filed a concurrence, emphasizing that the complete-relief principle "operates as a ceiling" preventing courts from awarding relief beyond what is necessary to redress the plaintiffs' injuries. Justice Alito, joined by Justice Thomas, also filed a concurrence, noting that the Court did not decide whether States have third-party standing to assert the Citizenship Clause claims of their residents, or decide the propriety of class certification for nationwide classes. Justice Alito cautioned that courts still need to adhere to the rigorous procedural requirements for certifying classes under Rule 23. Justice Kavanaugh echoed this point in a separate concurrence.

Justice Sotomayor, joined by Justices Kagan and Jackson, dissented. Justice Sotomayor argued that the Executive Order is patently unlawful, and that a universal injunction enjoining its enforcement in toto is an appropriate remedy in this case. Justice Jackson filed a separate dissent, emphasizing that allowing the Executive branch to enforce unlawful orders against anyone who has not sued for relief threatens the rule of law.

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