

Trump taunts judicial branch as judges block second travel ban

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In rulings issued Wednesday night and Thursday morning, two federal district court judges in Hawaii and Maryland blocked the implementation of Donald Trump's revised immigration executive order on the grounds that it likely violates the First Amendment's prohibition of "any law respecting an establishment of religion."

Both judges cited Trump's own bigoted campaign statements in their decisions as evidence that the executive orders were aimed at targeting Muslims. The orders marked the second time in two months that the courts have blocked Trump's executive orders limiting immigration.

The revised executive order, issued March 6, only slightly modifies the January 27 order that was struck down last month. It includes a 90-day ban on visa issuance to immigrants, students, and travelers from six of the seven predominantly Muslim countries included in the first ban, with the exception of Iraq. Refugee admission would be suspended for 120 days under the order. Unlike the January order, US legal permanent residents would be excluded from the travel ban.

The Ninth Circuit Court of Appeals also ruled Thursday against reconsidering its February 9 decision blocking Trump's first executive order on immigration. Ninth Circuit Judge Jay Bybee, known for signing the Torture Memos as a Bush administration attorney, wrote a dissent signed by four other judges claiming the first executive order is legal for "national security" reasons.

Speaking in Nashville, Tennessee after the Hawaii federal judge issued the temporary restraining order, Trump said, "the law and the Constitution give the president the power to suspend immigration...when he or she deems it to be in the national interests of our country."

Trump threatened to defy the courts: "I think we ought to go back to the first version and go all the way, which is what I wanted to do in the first place."

The possibility that Trump will disregard judicial decisions was underscored by his visit Wednesday to lay a wreath at the tomb of Andrew Jackson, the seventh US president and a demagogic representative of the southern slaveholding class. The timing of this visit on the day before the ban took effect was not accidental. Jackson famously rebuked the US Supreme Court and Chief Justice John Marshall, when the court ruled in *Worcester v. Georgia* that the state of Georgia could not encroach on the territory of the Cherokee Native American tribe.

Plotting a genocidal campaign to remove the Native Americans and turn over their land to plantation owners, Jackson refused to enforce the decision, writing to Brigadier General John Coffee, "The decision of the supreme court has felt still born, and they find that it cannot coerce Georgia to yield to its mandate." (The apocryphal version quotes Jackson as saying, "John Marshall has made his decision; now let him enforce it.")

Trump has tweeted similar sentiments, noting on February 4 after a district court struck down his first immigration order, "The opinion of this so-called judge...is ridiculous and will be overturned," and "What is our country coming to when a judge can halt a Homeland Security travel ban...?" In mid-2016, Trump said a federal judge was treating him "unfairly" in a lawsuit over fraud at Trump University because the judge was of Mexican heritage.

The rollout of the executive orders is part of a carefully choreographed and reactionary long-term political maneuver that bears the trademark of Steven Bannon, Trump's fascist chief strategist.

The two executive orders are initial attempts to test the boundaries of a judicial branch that has rubber-stamped almost all of the most antidemocratic measures carried out by the government under the auspices of the war on terror. At the same time, Trump is whipping up anti-immigrant and anti-Muslim hysteria that he will then manipulate to launch even further assaults on basic democratic rights.

Prominent jurists have raised the possibility that the administration is counting on the courts to strike down the immigration orders in order to set the stage for the establishment of a “state of emergency” constitutional suspension.

Writing in the beltway insider blog *Lawfare*, Jane Chong noted in February, “As I write these words, a record number of even-keeled folks are googling ‘Reichstag fire’ and worrying out loud that the President of the United States is actively planning to exploit a future domestic terrorist attack to institute otherwise inconceivably bigoted, oppressive, and generally anti-democratic policies.”

One such figure is former Bush administration attorney Jack Goldsmith, who wrote on *Lawfare* that the hasty rollout of the first executive order suggests “that Trump is setting the scene to blame judges after an attack that has any conceivable connection to immigration.” Goldsmith pointed out that “after a bad terrorist attack, politicians are under intense pressure to loosen legal constraints,” adding that “courts feel these pressures, and those pressures will be significantly heightened...if courts are widely seen to be responsible for an actual terrorist attack.”

Trump and his fascist advisors are already laying the basis for such moves. In a February 5 tweet, Trump denounced the judge who halted his first executive order: “Just cannot believe a judge would put our country in such peril. If something happens blame him and court system.”

The Democratic Party has laid the table for Trump’s strategy. Over the course of the last 25 years, the Democrats have spearheaded or supported every antidemocratic attack carried out under the guise of the war on terror. With the help of the trade unions, they have encouraged Trump’s economic nationalism and anti-immigrant hysteria. If Trump uses or fabricates a terrorist attack to abrogate further democratic rights in the name of “national security,” the Democratic Party

will offer him their support.

For the time being, Trump’s second executive order will remain blocked unless the government withdraws it or the rulings are overturned on appeal.



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