

The Supreme Court - June 26, 2018

The Supreme Court of the United States issued two decisions today:

Trump v. Hawaii, No 17-965: President Trump, citing national security, issued a series of executive orders in 2017 restricting the entry of foreign nationals into the United States from several Muslim-majority nations. The third of these orders, Proclamation No. 9645, was issued in September 2017 after the previous two were enjoined by federal courts. On its face, the Proclamation places entry restrictions on the nationals of eight foreign states—Chad, Iran, Iraq, Libya, North Korea, Syria, Venezuela, and Yemen—whose systems for managing and sharing information about their nationals President Trump considered inadequate. The State of Hawaii, among others, challenged the Proclamation, claiming that it exceeded the President's powers under the Immigration and Nationality Act (INA) and that it was motivated by animus toward Islam in violation of the First Amendment's Establishment Clause. The Ninth Circuit held that the Proclamation exceeded the President's powers under the INA, but it did not reach the Establishment Clause claim. Today, the Court reversed and remanded. After assuming that the controversy was justiciable, the Court held that the Proclamation did not exceed the President's powers under the INA. The Court also reached and rejected the Establishment Clause claim, holding that the President set forth a sufficient national-security justification to survive rational-basis review.

The Court's decision is available [here](#).

National Institute of Family and Life Advocates v. Becerra, No. 16-1140: California's FACT Act requires licensed and unlicensed clinics offering reproductive services to give certain notices to clients. First, licensed clinics must provide a government-drafted notice stating that California provides, among other things, free or low-cost family-planning and abortion services to eligible women. Second, unlicensed clinics must provide a government-drafted notice disclosing that the facility is unlicensed. Petitioners—a group of California pregnancy centers—sued and sought a preliminary injunction against the FACT Act, claiming that the required notices violated their freedom of speech

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under the First Amendment. The District Court and the Ninth Circuit both concluded that Petitioners were unlikely to succeed on their First Amendment claim and denied the injunction. Today, the Court reversed and remanded. The Court, concluding that Petitioners were likely to succeed on the merits, held that (1) the first notice requirement was not tailored enough to achieve California's interest in providing low-income women with information about state services; and (2) at this stage, California did not provide a sufficient explanation for the second notice requirement to justify the requirement's burdens on clinics.

The Court's decision is available [here](#).