Community FAQ: Birthright Citizenship, Executive Order 14160, and *Barbara v. Trump*

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On the first day of his second term of office, President Trump signed Executive Order 14160, which seeks to end birthright citizenship for children born in the United States to parents without permanent legal status. The EO denies citizenship to children born to mothers the Administration considers either unlawfully present or in the country on temporary visas, and whose fathers are not U.S. citizens or lawful permanent residents (green card holders). The EO directs federal agencies to deny passports and social security numbers to these children unless at least one parent is a U.S. citizen or lawful permanent resident. The EO is set to apply to children born on or after February 19, 2025, marking the thirty day window of effect from the order's issuance on January 20, 2025.

However, the order directly contradicts the 14th Amendment to the U.S. Constitution and has thus been temporarily blocked by ongoing lawsuits. One of those cases, *Barbara v. Trump*, is a nationwide class action case brought by the ACLU, Asian Law Caucus, the NAACP Legal Defense Fund, and others. The woman who filed the case, identified as "Barbara," fled Honduras due to gang violence and sought asylum in the United States, where she now lives with her husband and three children; when she became pregnant in early 2025, she feared the order would deny her child U.S. citizenship.

The case is now before the Supreme Court, which will decide whether the executive order is lawful. If upheld, the policy could have far-reaching consequences for families and communities across the country. This resource helps explain the order and its potential impacts.

- **What will the Supreme Court be deciding in *Barbara v. Trump*?** The Supreme Court is being asked to decide whether the executive order violates the "Citizenship Clause" of the Fourteenth Amendment of the U.S. Constitution and/or the Immigration Nationality Act. (See more on the Citizenship Clause below, in *What is birthright citizenship?)*

- **When is the Supreme Court expected to issue its decision?** The Supreme Court is expected to rule on *Barbara* later this year, before the current term concludes in June or July 2026. Oral arguments, the beginning of the Court hearing the case, are scheduled for April 1.

- **Is there currently a court order blocking the executive order?** Yes. To date, the Trump Administration has not been allowed to enforce their executive order on birthright citizenship. Legal challenges, including the *Barbara* lawsuit, have been successful in securing temporary court orders, called preliminary injunctions, that prohibit the executive order from going into effect.

- **What does it mean that *Barbara v. Trump* is a "class action lawsuit"?** A class action is a lawsuit where one or more individuals sue on behalf of a larger group of people. The full

group of people who can get relief is known as the "class" or "class members." **All children who are targeted by the executive order are automatically class members in *Barbara*.** That means all children born in the United States on or after February 20, 2025, are part of the class if: (1) their father was not a U.S. citizen or lawful permanent resident (green card holder) at the time of their birth, and (2) their mother's presence in the U.S. was unlawful or temporarily lawful (e.g. mothers with humanitarian visas, Temporary Protected Status (TPS), tourist visas such as B-2, and other temporary visas) at the time of their birth.

- **What is birthright citizenship?** Birthright citizenship refers to the legal principle that someone born in a country is automatically a citizen of that country, regardless of their parents' immigration status. The United States is one of thirty-eight countries that grant birthright citizenship. Birthright citizenship is a constitutional right guaranteed by the Citizenship Clause of the U.S. Constitution and federal statute. Across multiple generations for more than a century, U.S. law has guaranteed that if you are born in the U.S., you are a citizen.

- **Who does the executive order apply to?** If the order takes effect, it would apply to any child born in the U.S., on or after February 19, 2025, whose father is not a U.S. citizen or lawful permanent resident (green card holder) and whose mother is without legal status or is in the country on a "lawful but temporary" basis. This basis includes, among others, humanitarian visas, Temporary Protected Status (TPS), tourist visas (such as B-2), and other temporary visas.

- **How would the executive order affect newborn children?** Affected children would be denied the rights of U.S. citizenship, including access to Social Security and a U.S. passport. Without another path to legal status, they could be barred from voting, jury service, and certain jobs. **Many could also become undocumented or even rendered stateless, being left without protection from any country that recognizes them as a national or citizen.** This in turn, can leave children susceptible to potential deportation and serious long-term harm to their well-being.

- **What if one parent is a U.S. citizen or lawful permanent resident?** Under the order, a child born in the U.S. to a parent who is a U.S. citizen or lawful permanent resident (green card holder) would still be considered a citizen, regardless of the other parent's immigration status. However, the executive order would still make proving citizenship more burdensome for everyone, including citizens, as state-issued birth certificates would no longer qualify as proof of citizenship.

- **Who is considered to have 'lawful but temporary' status as per the EO?** This status includes, but is not limited to, mothers who have:
    - Humanitarian visas/parole and pending applications, including pending applications for U-visas, T-visas, and asylum

  - Temporary protected status (TPS) and humanitarian parole
  - Deferred Action for Childhood Arrival (DACA) recipients
  - Student, work and family visas, such as H-1B (specialty occupation workers), H-4 (dependents of H-1B), H2-a (temporary agricultural workers), F-1 (students), J-1 (exchange visitors), L-1 (intra-company transferees), L-2 (dependents of L-1), O-1 (extraordinary ability), and P-1 (athletes and entertainers)
  - Tourist visas, such as B-1 (business visitors) and B-2 (tourists)

- **Would the executive order affect mothers who have asylee or refugee status?** The executive order does not clearly address children whose mothers have asylee or refugee status and whose fathers are not U.S. citizens or permanent residents. A July 25, 2025 memo from the U.S. Citizenship and Immigration Services (USCIS) states that individuals who have been granted asylee and refugee status are to be considered "lawful and not temporary," suggesting the order would not apply to them. However, if the parent still has a pending asylum application, the USCIS may consider them to be unlawfully present. **That said, the memo is not currently in effect and only reflects how the agency may interpret the order if it is upheld by the Supreme Court.**

- **What would happen to families if birthright citizenship is taken away?** If the Supreme Court allows the executive order to take effect, the consequences would be immediate and severe. Children born in the United States to non-citizen parents who are lawfully present on a temporary basis (such as visa holders or DACA recipients) would no longer be recognized as citizens at birth. **Many could be left in a cycle of legal uncertainty, creating a generational subclass that will be denied full citizenship rights and legal identity.** Some children could even face detention or deportation despite having parents who are lawfully allowed to remain in the United States.