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Ninth Circuit Panel Prevents Trump Administration From Implementing Health Care Ban

May 4, 2020 – Good news today from the Ninth Circuit as litigators from the Justice Action Center (JAC), the American Immigration Lawyers Association (AILA), and Innovation Law Lab, with pro bono counsel Sidley Austin LLP, and Latino Network as the organizational plaintiff, welcomed the panel’s 2-1 decision to refuse the federal government a stay pending appeal of the preliminary nationwide injunction in *Doe v. Trump*. The administration had sought a stay of the injunction granted on November 26 by the U.S. District Court in Portland, OR. The stay would have allowed the Trump administration to immediately implement the October 4 presidential proclamation requiring legal immigrants to prove they hold a specific type of health insurance plan, or can pay for health care out of pocket, in order to be allowed entry into the United States. Evidence shows that up to two-thirds of legal immigrants would be denied entry to the U.S. if the ban takes effect, while the government has offered no evidence to show uncompensated care costs would decrease under the ban. The health care ban is unlawful and would affect more than 300,000 people each year, immediately separate families from loved ones, harm businesses seeking to employ international talent, and undermine our nation’s commitment to equal rights. The Ninth Circuit panel again agreed with the U.S. District Court in Portland, OR and the proclamation remains enjoined for the plaintiffs, as well as for the nationwide class that was certified by the district court in April.

“We are thrilled that the Ninth Circuit has allowed this injunction to continue to protect the lawful family-based immigration system Congress enacted,” said Naomi Igra, an attorney at Sidley Austin LLP, which is providing pro bono counsel on the case.

Jesse Bless, Director of Federal Litigation at AILA said, “We applaud the court’s ruling today. Across the country, countless thousands of families can breathe a sigh of relief, less burdened by the administration’s relentless efforts to build an invisible wall against lawful, family-based immigration. The Ninth Circuit correctly recognized the irreparable harm that would have been inflicted, had the injunction been stayed.”

“We’re very happy with the Ninth Circuit’s decision today, which recognizes that the President cannot unilaterally rewrite this nation’s immigration laws.” said Esther Sung, Senior Litigator at the Justice Action Center. “In attempting to ban up to two-thirds of all immigrants, the health care ban would harm not only thousands of families, but also the economic, civic, and social fabric of this country. We are glad the district court’s injunction remains in effect.”



"Today's ruling is a very important victory in our fight to protect family unity," said Stephen Manning, Executive Director of Innovation Law Lab. "The United States' long-standing tradition of reuniting families through its immigration system is a key component of our nation's stability, prosperity, and collective strength."

Carmen Rubio, Executive Director of Latino Network said, "Today's decision is a gratifying step towards our families' reunification and a reinforced commitment to the family-based immigration system that has been in place in our country for over a hundred years. For the last four years, we have seen our community suffer at the hands of the current Administration's attacks against the same foundations our country was built upon. We will not stop fighting until our families are together."

Background

On October 4, 2019, President Trump signed a proclamation barring qualified immigrants from receiving visas unless they could prove they would be covered by "approved" health insurance within 30 days of arriving in the U.S., or are healthy and wealthy enough to pay for "reasonably foreseeable medical costs" upon arrival. The proclamation, labeled a ban because of its tremendous reach and impact, limited "approved health insurance" to plans that many immigrants do not qualify for; are unavailable in large states like New York and California; or would be impossible to obtain within 30 days of arrival. The proclamation was to go into effect on November 3, 2019.

A temporary restraining order issued by the U.S. District Court in Portland, OR, on November 2, 2019, had stopped the federal government from implementing the policy. During that month, approximately 25,000 visas were granted that would otherwise have been denied. The preliminary injunction issued November 26, 2019 solidified that win. The District Court subsequently certified a nationwide class on April 7, 2020, recognizing the breadth of the impact the proclamation would have on the nation's immigration system. The rejection of both the emergency, and now non-emergency, stay means that the district court's order will remain in effect for now, unless the federal government seeks and obtains a stay from the U.S. Supreme Court.

Meanwhile the underlying lawsuit will move forward in District Court.