

THE LEGAL EXAMINER

Diversity Visa Program Scapegoated by Trump after NYC Attack

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Most of us have watched, with horror, the television news accounts that depict 29-year-old Sayfullo Saipov plowing into people on a well-trafficked bike path just blocks from the World Trade Center. Saipov, an Uzbek national, moved to the U.S. in 2010 and was living in New Jersey with his wife and three children, according to [CNN](#).

Video footage shows a person who has been identified as Saipov, driving a Home Depot rental truck at a moderate speed. When he reaches the jogging path, he accelerates and drives for about a mile plowing down cyclists and pedestrians, leaving bodies and bikes in his wake. After slamming into a bus, the man gets out of his vehicle with a paintball gun and a pellet gun, allegedly shouting “Allahu Akbar,” before he is shot in the abdomen by a police officer; he is then taken to a New York hospital and is expected to survive. Eight people died and 12 others were injured in the incident.

“He did this in the name of ISIS, and along with the other items recovered at the scene was some notes [written in Arabic] that further indicate that,” said John Miller, deputy commissioner of intelligence and counter-terrorism of the NYPD. “He appears to have followed almost exactly to a ‘T’ the instructions that ISIS has put out in its social media channels before with instructions to their followers on how to carry out such an attack.”

According to reports, Saipov had planned the attack for about a year, inspired by 90 ISIS videos he watched on his cell phone. An internet search history showed he had searched for “Halloween in NYC” and “truck rentals,” among other things. Reports further stated that Saipov had no remorse, and in fact told investigators he “felt good about what he had done.”

During a preliminary investigation, officials learned that Saipov had come to the U.S. through the Diversity Visa Lottery Program, created as part of the [Immigration Act of 1990](#), and [signed into law by President George H.W. Bush](#). Under the program, the State Department offers 50,000 immigrants per year a visa for a green card, which gives permanent residency. The only requirement is that entrants be adults with a high school diploma or two years of recent work experience. But, the process includes an in-person interview with the State Department, and the applicant must provide a birth certificate, health records, as well as any court, police, or deportation records. Winners can bring their spouse and minor children, too.

President Trump wasted no time using the deadly terror attack as a political scapegoat to advance his anti-immigrant agenda. During a White House Cabinet meeting the following day, Trump announced that he would begin the process to terminate the Diversity Visa Lottery Program. He would then move to a merit-based system that would favor only those immigrants that were highly skilled, highly educated, and English-speaking. Yet, there are almost no links between terror attacks and the lottery program; there has been exactly one linked fatality prior to this

week's attack. Furthermore, Trump has never included Uzbeks in his travel ban. Compare Trump's angry, bigoted, response in this case, to the statements he made following *white* terrorist attacks in Las Vegas and Charlottesville (there were 'good people on both sides'). How do we keep white Anglo-Saxon American citizens out of the country, Mr. President? Where is your outrage for *white* terrorist acts?

"The State Department reports that Uzbekistan's government cooperates with the U.S. counter-terrorism efforts, and the country isn't considered to be a 'terrorist safe haven'," said David Bier, an immigration policy analyst at the CATO Institute. Perhaps this is a tragic, but isolated, event. Still, President Trump ran for the nearest microphone and immediately called for the death penalty in the Saipov case and an end to the Diversity Lottery Program. When one considers that the United States Constitution requires due process and a standard of 'innocent until *proven* guilty' in criminal cases, this ignorant and outrageous presidential proclamation of guilt and selective (unconstitutional) punishment taints any jury pool and makes it *more* difficult, not less, for prosecutors to convict the terrorist. Mr. President: Your bigotry is showing and it is hurting America... *again*.

We are a nation of immigrants; immigration has made America what it is today. The Statue of Liberty encourages other nations to send us 'your tired, your poor, your huddled masses yearning to be free'; it does not encourage our neighbors to only send their best and their brightest, although an argument could be made that we should certainly encourage the immigration of 'difference makers' to America. What we, as a free society and a nation of immigrants should never support is a ban on certain races, creeds, religions or cultures simply because of their race, creed, religion or culture. Further, demanding that we admit only the 'best and brightest' from any country, sounds a bit like a Nazi themed policy, doesn't it? How can we claim to be the land of the free while we support discriminatory immigration policies? As Martin Luther King Jr. suggested, shouldn't these cases be judged by the 'content of our character' rather than by our ethnic origins?

The list of immigrants who helped shape America is endless – politicians, scientists, mathematicians, physicists, professors, politicians, actors, sports figures, inventors, authors, movie producers, and more. I am the grandson of immigrants, and unless your ancestors are Native American, you are a descendant of immigrants, as well. Our ancestors chose to migrate to America seeking economic opportunity and democratic freedom. America allows people from all over the world to seek a better life in a free and just society. When we blame an entire people or an entire religion for the acts of fringe fundamentalists, are we any better than the terrorists who blame us for their woes? Worse, we relinquish the soul of our country, the 'secret sauce' that makes America great, when we respond as our president did in this case.

I feel so passionate about these issues that I wrote a book about them. My 2nd novel in the Zachary Blake Legal Thriller Series, "Betrayal of Justice," calls attention to the fundamental issue of religious persecution, but also challenges each of us to pause, take a breath, and ask this fundamental question: Can men and women of all races, creeds, colors and religions truly obtain justice in an ethnically torn America?

The current immigration battle between Congress and the President is a battle fought over prejudice and bigotry. Why do we, a nation of immigrants, a melting pot society, suddenly have such profound difficulty embracing and celebrating our differences? Aren't we better than this?

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