



## 5 Facts You Need To Know About Hawaii's Unhinged Lawsuit Against Trump

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Here we go again. In response to President Trump's rewritten travel moratorium, the state of Hawaii is suing to block it.

Here are some key takeaways from the Aloha State's complaint:

### 1. They're still going after Trump's campaign promises

Literally the first allegations against President Trump have to do with the things he said on the campaign trail, rather than the executive order itself, which the 9th Circuit dangerously invoked in its ruling on the previous executive order.

"President Trump repeatedly campaigned on the promise that he would ban Muslim immigrants and refugees from entering the United States," reads the document, before listing specific instances, "particularly from Syria, and maintained the same rhetoric after he was elected."

It goes on to allege: "Within a week of being sworn in, President Trump acted upon his ominous campaign promises to restrict Muslim immigration, curb refugee admissions, and prioritize non-Muslim refugees."

Once again, even if an executive order contains nothing about banning Muslims, it apparently becomes a 'Muslim ban' when someone says mean things.

### 2. It deceptively sources and presents its information

In an attempt to show a supposedly-negligible effect of the moratorium, the complaint cites a report from the Cato Institute, deceptively alleging that "not a single fatal terrorist attack has been perpetrated in the United States by a national of one of these seven countries since at least 1975."

The operative word here is “fatal.” Luckily, nobody was killed by the 72 individuals from the original seven (now six) countries convicted on terrorism charges since the September 11 attacks alone.

3. The personal injuries listed in the case include someone’s mother-in-law

One of the named plaintiffs, Ismail Elshikh, PhD — the Imam of the Muslim Association of Hawaii — is claiming injury because his non-citizen mother-in-law can’t come from Egypt to visit.

“The new Executive Order will prevent Dr. Elshikh’s mother-in-law from obtaining a visa to visit or reunite with her family in Hawai‘I,” reads the document. “Under the new Executive Order, however, Dr. Elshikh fears that his mother-in-law will, once again, be unable to “enter” the country under Section 2(c) of the Executive Order. The family is devastated.”

Since when does even a U.S. citizen have a Constitutional right to get a visit from his non-citizen mother-in-law?

The complaint also makes the same claims about members of Elshikh’s mosque, who now supposedly “live in forced separation from those family and friends.” Apparently, in Elshikh’s mind, the travel moratorium also precludes people from leaving the country as well.

4. There’s a lot about feelings going on here

Even though the moratorium very clearly isn’t a Muslim ban by its language, one of the reasons Hawaii is suing is because Elshikh’s family and mosque feels like it is.

So things become Establishment Clause violations when someone’s feelings get hurt? When did that happen?

Dr. Elshikh feels that, as a result of the new executive order, there is now a favored and disfavored religion the state, He also claims that members of his family here in the U.S. are “deeply affected” by the order, which allegedly “conveys to them a message that their own country would discriminate against individuals who share their ethnicity.”

Wait, is this supposed to be a Muslim ban or an Egyptian Arab ban? Religion isn’t race, folks.

5. Hawaii is affected because ... reasons?

Citing many of the same arguments as the last go-round, Hawaii’s lawyers also argued that the order has “profound effects on the State as a whole.”

The claims of injury against the state of Hawaii are especially laughable. According to the document, the injuries include not being able to accept students from the zones into the University of Hawaii and, “More broadly, the new Executive Order means that Hawai‘i will be unable to honor the commitments to nondiscrimination and diversity embodied in Case the State’s Constitution, laws, and policies.”

Let's just forget for a moment that the Constitution sets Congress as the sole arbiter of U.S. immigration policy and that Congress has passed federal statute granting the president the ability to shut down immigration for national security reasons; Hawaii's feelings are hurt, so their public university and legislature should set immigration policy instead?

So here we are again. The fact that the exercise executive power is backed up by 200 years of law, precedent, and the Constitution goes out the window apparently doesn't matter if you hurt someone's feelings.

But this should come as no surprise. As admirable as the intention was to rewrite the order to stand up to scrutiny (albeit with the mistake of taking Iraq off the list), there was no way to write this to avoid a situation like this. And Hawaii is in the (surprise!) 9th federal circuit, meaning the same backflip-cutting court that produced last month pile of jurisprudential drivel will have yet another chance to rule on the same and similar nonsense arguments.

Even in situations where the president has clear authority — as he does in this one — he will have to scale a wall of black robes and activist decisions at nearly every turn. Unless Congress does as it has before and limit the jurisdiction of the federal courts on issues like these, the administration should expect 3.75 more years of similar rewrites.