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Analysis: The Supreme Court Might Want To Disbelieve Its Lying Eyes (And Ears)

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If Supreme Court watchers are correct, the Court will uphold the President's third attempt at a Muslim ban.

The government relied on two main arguments. It tried to argue that this really isn't a Muslim Ban. And this really is about national security, which falls within the President's constitutional powers. It looks like the majority bought those arguments.

As suggested by Justice Alito, it isn't really a Muslim ban because it only bans 5% of the world's Muslims.

To accept this argument one would have to disbelieve their lying eyes and their lying ears.

It was Trump who promised "a total and complete shutdown of Muslims" entering the country in 2015. He repeated the sentiment throughout his campaign. Shortly after Trump took office, Rudolph Giuliani admitted that Trump asked him to find a way to ban Muslims legally.

"I'll tell you the whole history of it: When he first announced it, he said 'Muslim ban,'" Giuliani said on Fox News.

"He called me up, he said, 'Put a commission together, show me the right way to do it legally.'"

Even if one accepts that Trump's anti-Muslim rhetoric and expressed desire to ban Muslims was "just talk" during a campaign, one need only look at Giuliani's comments and the fact that Trump retweeted anti-Muslim tweets on multiple occasions to understand two important facts.

Trump hates Muslims. Trump wants a Muslim ban even if we call it something else for the sake of trying to get it by the Supreme Court.

We're talking about any form of entry, be it a stopover at an American airport, vacations, visiting family, attending the funeral of a loved one.

If the smart money is right that the Supreme Court will rule in Trump's favor, it's all but a guarantee that Trump will expand his list of people from countries banned from entering the United States on "national security grounds" wink, wink.

Here's where I have a question. How can he base his Islamophobic edicts on national security when he doesn't read his briefings but "breaks with tradition" by substituting hours of propaganda from Trump TV aka Fox?

It's all but certain that Justice Breyer's concern about the waiver provision is really just window dressing will be a reality. We can draw that from existing numbers and other related policies.

In a 2017 study, the right wing Cato Institute concluded fewer Muslims are coming to America as a result of Trump's policies.

"This year's drop is even more substantial when compared with the trend. In only one year over the last decade has the number of Muslim refugee admissions fallen, and Muslim admissions have increased on average 18 percent annually from 2007 to 2016.

As for foreign travelers and immigrants seeking to live permanently in the United States, the State Department does not ask on its visa application form about their religious affiliation (thankfully). But based on the number of visas issued to nationals of the nearly 50 majority Muslim countries, it certainly appears that the Trump administration policies have affected them as well."

We accepted 11 refugees from Syria, so far this year. That number is put in perspective by NPR.

In 2016, near the end of Barack Obama's presidency, the U.S. resettled 15,479 Syrian refugees, according to State Department figures. In 2017, the country let in 3,024. So far this year, that number is just 11. By comparison, over the same 3 1/2-month period in 2016, the U.S. accepted 790.

Anyone who has paid attention to Trump's deeds and words knows that Justice Kagan's hypothetical "out of the box" president, isn't as out of the box as we might be very tempted to believe. In the hypothetical, she substituted Israel as the country being banned. I say this isn't as hypothetical as we may wish to believe because the people from Trump's verboten countries have not demonstrated being a danger to this country any more than people from Israel have. None of the people involved in terrorist activities came from those countries. With all due respect to the conservative justices that makes the national security argument nonsensical.

According to various analysts, conservative judges bought the catch phrases that this Muslim ban is really about national security and the president has a right to decide which immigrants are a threat to it.

Lawrence Hurley and Andrew Chung write:

"Both Chief Justice John Roberts and Justice Anthony Kennedy, a frequent swing vote on the nine-justice court, indicated they were unwilling to second-guess the president on the national security justifications for the policy."

Again, to accept that Trump's Muslim ban is about national security you would have to ignore your lying eyes and ears. You'd have to reject the idea that Trump's policies and rhetoric have already discouraged people from 50 Muslim countries from coming to America. You'd have to

accept that Trump reads his security briefings. You would need to believe that he is a rational man who believes facts or even knows what they are.

You would have to accept that Trump doesn't serve up nativist lies at every opportunity. You would have to accept the narrative that when Trump incites hatred be it by speech or by tweet he's just "joking" and dares to not be politically correct.

It's very likely that the conservative Justices will convince themselves that banning Muslims is really about national security as they grant Trump's wish of banning people from visiting or immigrating to America based on their religious beliefs.

That doesn't change the reality of Trump's intention or its foreseeable results.