



White House official attacks court after legal setbacks on immigration

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WASHINGTON — A White House official on Sunday attacked a U.S. court ruling that blocked President Donald Trump’s executive order on immigration as a “judicial usurpation of power” and said the administration was considering a range of options, including a new order.

Sustained criticism of the judiciary from the White House comes amid concern among Democrats and legal scholars over Trump’s view of the constitutional principle of judicial independence as the administration seeks to overcome legal setbacks to its travel ban issued on Jan. 27.

It has also become the backdrop against which U.S. senators consider Trump’s Supreme Court nominee, Judge Neil Gorsuch, for a lifetime appointment to the nation’s highest court.

The Republican president said Friday that he may issue a new executive order rather than go through lengthy court challenges to the original one, which temporarily barred entry to the United States of people from seven Muslim-majority countries.

“We have multiple options and we are considering all of them,” White House senior policy adviser Stephen Miller said on ABC’s “This Week.”

Miller sharply criticized the 9th U.S. Circuit Court of Appeals ruling on Thursday that upheld a Seattle federal judge’s suspension of Trump’s executive order. He accused the San Francisco-based court of having a history of overreaching and of being overturned.

“This is a judicial usurpation of power,” he said on “Fox News Sunday.” “The president’s powers here are beyond question.”

The Trump administration has defended the travel ban on grounds it will prevent potential terrorists from entering the country, although no acts of terrorism have been perpetrated on U.S. soil by citizens of the targeted countries.

The ban's announcement, late on a Friday, sparked a weekend of confusion at airports around the globe and within the federal agencies charged with enforcing it. It also triggered widespread protests and legal challenges.

Aware that a new executive order would allow critics to declare victory against the travel ban, the White House has deflected blame and intensified its criticism of the judiciary.

"I think it's been an important reminder to all Americans that we have a judiciary that has taken far too much power and become in many cases a supreme branch of government," Miller said on CBS' "Face the Nation."

"One unelected judge in Seattle cannot make laws for the entire country. I mean, this is just crazy," he said.

Miller's appearance on several Sunday news shows won a plaudit on Twitter from Trump, who has himself attacked individual judges and called the courts "so political."

"Great job!" Trump tweeted.

Gorsuch condemned the attacks on the judiciary as "disheartening" in private meetings last week with a number of U.S. senators, who pressed the judge to go public. Ron Bonjean, a Republican strategist, confirmed the conversations.

Legal experts said the Trump administration statements could undermine respect for the constitutional division of powers.

Cornell University law professor Jens David Ohlin said that accusing the judiciary of usurping the president's powers demonstrated "an absurd lack of appreciation for the separation of powers."

"Miller is coming dangerously close to reviving a discredited and dangerous theory that each branch of government, including the president, has independent authority to decide what the law and Constitution mean," Ohlin said in an interview Sunday.

"In our system of government, the commander in chief executes the laws, but it is the judiciary which interprets both the laws and statutes passed by Congress and the Constitution. That's their solemn duty," he added.

Ilya Shapiro, a senior fellow in constitutional studies at the libertarian Cato Institute, said Trump's remarks could diminish popular respect for institutions of law and order by making Americans think "the government's a joke, that you don't have to follow what judges say."

Immigration laws give the U.S. president broad powers to restrict who enters the country on national security grounds.

But the same laws forbid discrimination based on race, sex, nationality, or place of birth or residence. The case also could involve First Amendment protections involving religion.

Trump's executive order banned entry into the United States to refugees and citizens of Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen for 90 days and all refugees for 120 days, except refugees from Syria, who were banned indefinitely.

Options for the administration include formulating a new executive action, appealing the 9th Circuit panel's decision to the full appeals court and appealing the emergency stay to the Supreme Court, Miller said.