



Ilya Shapiro: A judicial failure that compounds an executive one

This is a dog's breakfast of a ruling on a dog's lunch of an executive order. Somehow the 9th Circuit judges manage to write 29 pages without discussing the heart of the matter: whether the Immigration and Naturalization Act, specifically section 1182, gives the President the power to do what he did. Nebulous discussions of due process may be nice (or not) but they're superfluous if the President went beyond his statutory authority. But apparently the court didn't care about that.

And of course this whole mess could have been avoided if the executive order had gone through proper interagency review in the first place, as well as being more narrowly tailored. As it stands, it's both over- and under-inclusive, sweeping in green card and other visa holders who have already gone through "extreme vetting," as well as nonthreatening graduate students and sick kids, while not covering the potentially risky pool of nationals from noncovered countries (including European ones) who may have become radicalized.

In short, this is a judicial failure that compounds an executive one. Perhaps it's time for the legislative branch (Congress) to step in and fix our broken immigration system once and for all.

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