

SCOTUS Snapshot

Your weekly window into the Court that shapes the nation.

Trump v. Barbara — Birthright Citizenship

What's At Stake

- What is the case about?

The Supreme Court held that the Fourteenth Amendment guarantees U.S. citizenship to virtually every child born on American soil, including children whose parents are unlawfully present in the United States or are here only temporarily. In a 5–4 decision, the Court concluded that such children are “subject to the jurisdiction” of the United States within the meaning of the Citizenship Clause, affirming the long-standing interpretation first adopted in *United States v. Wong Kim Ark*.

Writing for the majority, Chief Justice Roberts concluded that the Citizenship Clause codified the English common-law principle of *jus soli* (citizenship based on place of birth) and that the Framers of the Fourteenth Amendment intended only narrow exceptions, such as the children of foreign diplomats and members of sovereign Indian tribes. The Court rejected the argument that the citizenship or immigration status of a child’s parents affects whether a child is constitutionally entitled to birthright citizenship.

The dissents took a dramatically different view. Justice Thomas, joined by Justice Gorsuch, argued that the majority divorced the phrase “subject to the jurisdiction” from its original public meaning and ignored the historical understanding that complete political allegiance, not mere physical presence, was required for citizenship. Justice Alito likewise concluded that the Fourteenth Amendment was never intended to constitutionalize birthright citizenship for the children of those unlawfully or temporarily present in the country.

- Who is affected and how?

The decision directly affects children born in the United States to parents who are unlawfully present, but more broadly, affects every American. This ruling has significant implications and long-term consequences for immigration policy, voting eligibility, public benefits, and taxpayer-funded resources, to name a few.

- Why does it matter?

The decision constitutionalizes birthright citizenship as a matter beyond the reach of Congress or the president, absent a constitutional amendment. It foreclosed one of the principal legal arguments advanced by those who contend that the Fourteenth Amendment’s Citizenship Clause requires more than mere birth on U.S. soil.

Our Take

We believe the Court got this one wrong. The Fourteenth Amendment's Citizenship Clause was never intended to guarantee automatic citizenship to every child born in the United States regardless of the parents' legal status or allegiance. As the dissents explain, the phrase "subject to the jurisdiction" carried substantive meaning at the time of ratification and imposed limits the majority effectively erased. While the Court has now spoken, the extensive historical analyses offered by the dissents ensure that the debate over the original meaning of the Fourteenth Amendment's Citizenship Clause is far from over.