

Trump slams the courts, his court nominee hits back

WASHINGTON — President Donald Trump on Wednesday slammed the court that is deliberating his immigration and refugee executive order as being “so political,” part of a relentless pounding of the judiciary branch that prompted a rebuke from his nominee for the Supreme Court.

Speaking to a group of police chiefs, Trump said his immigration order was “done for the security of our nation.” He quoted from the portion of the immigration law that he said gave him the power to enact the ban, calling it “beautifully written” and saying “a bad high school student would understand this.”

“Courts seem to be so political and it would be so great for our justice system if they would be able to read a statement and do what’s right,” he added. “And that has to do with the security of our country, which is so important.”

Trump’s comments come as the 9th U.S. Circuit Court of Appeals is weighing the appeal of his executive order on immigration, including a temporary travel ban on people from seven Muslim-majority coun-



President Donald Trump listens in the Oval Office of the White House on Wednesday.

tries. In a hearing Tuesday, judges on the appeals court challenged the administration’s claim that the ban was motivated by terrorism fears, but also questioned an attorney’s argument that it unconstitutionally targeted Muslims.

Since a lower court judge blocked the order last week, Trump has criticized the decision.

He labeled the judge in the case a “so-called judge” and called the ruling “ridiculous.”

Legal experts, Democrats and some Republicans criticized Trump’s remarks as jeopardizing the independence of the judiciary and attempting to use political influence to sway the courts.

Trump’s nominee for the

Supreme Court joined the criticism Wednesday in a meeting with Sen. Richard Blumenthal of Connecticut.

Blumenthal said Judge Neil Gorsuch described the president’s comments about the judiciary as “demoralizing and disheartening.”

Gorsuch’s confirmation team confirmed the judge’s comments.

In his speech, Trump sought to link his comments about the court battle over his executive order to the law enforcement community in attendance.

“We have to allow you to do your job,” he said. “And we have to give you the weapons that you need, and this is a weapon that you need and they’re trying to take it away from you.”

The president has repeatedly said people are “pouring in” since the ban was put on hold and suggested that blocking the order would be dangerous for U.S. citizens.

Wednesday morning he tweeted, “Big increase in traffic into our country from certain areas, while our people are far more vulnerable, as we wait for what should be EASY D!”

The administration has not provided any information to support his claims.

Customs and Border Protection, the agency in charge of screening people who arrive at U.S. ports, including airports, has not responded to multiple requests to detail how many visa holders from the seven designated countries have been allowed into the United States since a federal judge temporarily blocked the government from implementing the travel ban.

The State Department previously said fewer than 60,000 visas were provisionally revoked after the order was signed and those people would now be allowed to travel to the U.S. Trump’s order banned travel to the U.S. for people from Syria, Sudan, Iraq, Iran, Somalia, Yemen and Libya. It also suspended the country’s refugee global program.

As of Wednesday afternoon 641 refugees from 13 countries, including five whose citizens were barred from the U.S. under the travel ban, had arrived since a federal judge in Washington ruled against the government.

Q&A: Untangling the legal issues surrounding Trump’s travel ban

SEATTLE (AP) — A federal appeals court is considering whether to reinstate President Donald Trump’s travel ban, but another aspect of his executive order is still in effect — a review of visa procedures to ensure they are strict enough.

That review can happen whatever the 9th U.S. Circuit Court of Appeals decides. Knowing that could give the panel of three judges more reason to leave the ban on refugees and people from seven Muslim-majority countries with ties to terrorism on hold while the legal challenge by Washington state and Minnesota plays out.

“Is there any reason to think there’s a real risk ... if existing procedures weren’t allowed to stay in place while the administration, the new administration, conducts its review?” Judge Richard Clifton asked during a hearing Tuesday.

WHAT’S THE UPSHOT?

Trying to divine how a court might rule from the questioning can be a fool’s errand, but some legal scholars who were willing to try

said Washington state appeared to make enough of a case to keep the ban on ice, at least for now.

The judges repeatedly asked Justice Department attorney August Flentje whether the government had any evidence that the travel ban was necessary or that keeping it on hold would harm national security. They expressed skepticism over his argument that the states don’t have standing to sue and over his assertion that the courts have little to no role in reviewing the president’s determinations concerning national security.

Stephen Vladeck, professor at the University of Texas School of Law, wrote that he was struck by “the government’s seeming inability to provide concrete evidence of why immigration from those countries threatens national security.”

Washington state Solicitor General Noah Purcell also faced tough questioning from Clifton, who said he wasn’t necessarily buying the states’ argument that the ban was motivated by religious discrimination. The judge

mentioned that the vast majority of Muslims live in countries that aren’t targeted by the ban.

IS IT DISCRIMINATORY?

After being repeatedly asked, Flentje acknowledged that individuals could have standing to sue if the president tried to enforce a ban on Muslims entering the U.S. But, he said, that’s not all what’s happening here.

Basing the order on travel from certain countries that have been linked to terrorism — whatever their religion — is a legitimate exercise of the president’s authority over national security, he argued.

Purcell said it’s remarkable to have this much evidence of discriminatory intent this early in the case — including Trump’s campaign statements about a Muslim ban and adviser Rudy Giuliani’s comments that he was asked to help devise a legal version of the Muslim ban.

“There are statements that we’ve quoted in our complaint that are rather shocking evidence of intent to discriminate against Muslims,” Purcell said.

Even if Trump’s executive order itself doesn’t single out Muslims, the order is constitutionally discriminatory if it was adopted with such intent, Purcell said.

WHAT ARE THE OPTIONS?

Purcell argued that the simplest course is to send the case back to U.S. District Judge James Robart for procedural reasons.

The Seattle judge temporarily blocked the executive order last week while the states’ lawsuit works its way through the courts. The Washington state solicitor general said the appeals court could take up the merits of the case after Robart issues a further ruling.

The court could narrow the scope of Robart’s order, which it called too broad.

Flentje suggested it could be limited to allow the president to ban travelers who don’t already have relationships with the United States, while allowing legal permanent residents, for example, to return to the U.S. from the seven countries.

Purcell said that wouldn’t work. The government hasn’t shown that

it could engineer a way to apply the ban so selectively, he said.

Judge William Canby noted that Washington’s universities might want to invite foreign scholars to visit and that they might have no connection to the U.S.

TO THE HIGH COURT?

The Supreme Court has a vacancy, and there’s no chance Trump’s nominee, Neil Gorsuch, will be confirmed in time to take part any consideration of the ban. Under the most optimistic timetable, Gorsuch would not be confirmed before early April.

Senate Democrats are likely to question Gorsuch about his views on presidential power, both in light of the Trump order and Gorsuch’s writings expressing skepticism about some aspects of executive authority.

The travel ban was set to expire in 90 days, meaning it could run its course before the court takes up the issue. The administration could also change the executive order, including changing its scope or duration.

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