

Cowdrey, United States vs.

Federal Petition

August 14, 2025

Supreme Court Oral Argument – Petitioner

Mr. Chief Justice, and may it please the Court: This case asks whether the Citizenship Clause of the Fourteenth Amendment must be read to confer automatic citizenship on every child born within our borders, even when the parents are present unlawfully and owe allegiance to a foreign power — and whether such an interpretation is consistent with the Constitution’s text, its original meaning, and the duty of the federal government to protect its citizens from harm. We submit that the Framers of the Fourteenth Amendment did not intend to extend citizenship to the children of foreign nationals who have entered and remain in violation of our laws. Extending birthright citizenship to such individuals has fostered patterns of mass migration that, as the record shows, have facilitated conditions of economic exploitation, human trafficking, and even organized violence — conditions the petitioner contends rise to the level of domestic warfare and modern slavery against the American people. Our argument proceeds in three parts: First, the plain text and historical context of the Citizenship Clause — “and subject to the jurisdiction thereof” — exclude the children of those who remain under the political jurisdiction and allegiance of another nation. Second, this Court’s decision in *United States v. Wong Kim Ark* does not mandate a contrary result; indeed, it affirms the principle that allegiance and jurisdiction are central to citizenship. *Wong Kim Ark* involved parents lawfully and permanently domiciled in the United States, not those who entered in violation of law. Third, the policy consequences of a contrary rule have been catastrophic: the record documents large-scale human trafficking, coerced labor, cartel violence, and foreign infiltration of political and economic systems — harms squarely within Congress’s power and duty to prevent under its authority over naturalization, immigration, and national defense.

I. Text and History

The phrase “subject to the jurisdiction thereof” in the Fourteenth Amendment was intended as a term of art, not a mere geographic reference. As Senator Lyman Trumbull, Chairman of the Judiciary Committee at the time, explained, it meant “not owing allegiance to anybody else.” Foreign nationals who enter and remain unlawfully owe such allegiance to their home states, and their children, by extension, are not “subject to the complete jurisdiction” of the United States in the sense the Framers intended.

II. Wong Kim Ark Distinguished

In *Wong Kim Ark*, the Court recognized birthright citizenship for a child born to lawful, permanent residents of Chinese nationality. But the Court took pains to reaffirm that the doctrine did not apply to “children of foreign sovereigns, ministers, or citizens or subjects of foreign states who remain domiciled abroad.” The distinction between lawful, permanent domicile and unlawful, transient presence is constitutionally significant. To conflate the two

would erase the jurisdictional limit in the text and override Congress's plenary authority in immigration matters.

III. National Security and Human Rights Concerns

The petitioner's evidence, drawn from government reports and historical data, shows that the current application of birthright citizenship has incentivized and facilitated sustained patterns of illegal entry. These patterns have not only strained social systems but also enabled transnational criminal organizations, including cartels and trafficking networks, to operate within U.S. borders. The harms include: - Widespread labor exploitation tantamount to involuntary servitude. - Cartel-related violence impacting both border and interior communities. - Political and economic manipulation by foreign actors. This is not speculative. The record documents human trafficking pipelines, targeted violence against vulnerable populations, and infiltration by actors linked to foreign governments — all of which are enabled by an interpretation of the Fourteenth Amendment that automatically confers citizenship regardless of lawful presence or allegiance. The Constitution is not a suicide pact. Its protections and privileges are meant to secure the liberty and safety of the people, not to compel policies that undermine national security and invite systemic abuse.

Justice Q&A; – Petitioner's Prepared Responses

Q1 – Justice: *Counsel, in *United States v. Wong Kim Ark*, this Court held that a child born in the United States to foreign parents was a citizen. Isn't that binding precedent?*

Answer: Justice, *Wong Kim Ark* is binding only as to its specific facts — lawful, permanent residents who had established a lasting domicile here. The Court in *Wong* explicitly excluded from its holding "children of foreign ministers, sovereigns, or subjects of a foreign state who remain domiciled abroad." Unlawful entrants fall within that excluded category because they remain under the jurisdiction and allegiance of another sovereign. Our case does not seek to overturn *Wong Kim Ark*; it seeks to apply its jurisdictional principle consistently.

Q2 – Justice: *If Congress wanted to limit birthright citizenship, couldn't it just pass a statute? Why should this Court do it?*

Answer: Justice, Congress's power over naturalization and immigration is broad, but it must operate within constitutional limits. If the Fourteenth Amendment's Citizenship Clause is properly understood not to confer automatic citizenship on the children of those here unlawfully, then Congress already possesses the authority to enact laws consistent with that understanding. The problem is that decades of administrative practice, relying on an overly broad reading of *Wong*, have effectively rewritten the Constitution without judicial review. This Court's role is to interpret the text faithfully, restoring Congress's rightful authority.

Q3 – Justice: *What about the practical implications? Wouldn't changing the rule create stateless children or undermine equality principles?*

Answer: Justice, our position aligns with international norms. The vast majority of nations grant citizenship primarily by parentage (*jus sanguinis*), not merely by location of birth (*jus soli*). Children born here to foreign nationals would retain or be entitled to the citizenship of their parents' home country under that country's laws, preventing statelessness. As for equality, the Constitution does not require that all persons born here be citizens; it requires that all citizens be treated equally under the law. The jurisdictional limitation is about

allegiance, not race or ethnicity.

Q4 – Justice: *How do you tie your policy concerns — trafficking, slavery, violence — to the constitutional question? Isn't that a political matter for Congress?*

Answer: Justice, the policy evidence here is not a substitute for constitutional text; it is a confirmation of why the jurisdictional limitation was written in the first place. The Framers understood that allegiance mattered because foreign powers and non-citizen populations could pose security risks. The documented rise in organized trafficking networks, coerced labor, and targeted violence against Americans shows that the original safeguard — limiting automatic citizenship to those fully under U.S. jurisdiction — remains essential to protecting both sovereignty and the rights of citizens.

Q5 – Justice: *Your opponents will say “subject to the jurisdiction thereof” just means subject to U.S. laws, as everyone physically here is. How do you respond?*

Answer: Justice, “jurisdiction” in the Fourteenth Amendment means complete, political jurisdiction — not merely the reach of our criminal laws. Foreign diplomats and enemy soldiers are subject to certain U.S. laws when present here, but they are not “subject to the jurisdiction” in the constitutional sense because they owe allegiance to another sovereign. Unlawful entrants likewise retain that allegiance and therefore fall outside the Clause's original scope.

Q6 – Justice: *If we rule in your favor, what exactly would the legal rule be?*

Answer: Justice, the rule would be: A person born in the United States is a citizen under the Fourteenth Amendment only if, at the time of birth, at least one parent is either a U.S. citizen, a lawful permanent resident domiciled in the United States, or otherwise fully subject to the political jurisdiction of the United States. This rule restores the jurisdictional limitation and aligns our law with the original meaning, our precedent, and modern security needs.

Closing

For these reasons, we respectfully urge this Court to hold that the Citizenship Clause does not extend birthright citizenship to the children of foreign nationals who are present in violation of federal law, and to remand for proceedings consistent with that holding.