

JUDGE ALIKHAN DIDN'T HALT TRUMP'S FUNDING FREEZE ALONE, DEMOCRACY FORWARD DID TOO

Update: As Marisa Kabas and others have reported, OMB has rescinded the memo. Those involved here won this round.

Yesterday, just minutes after Trump's freeze on a great deal of federal funding was about to go into effect, Judge Loren AliKhan ordered a temporary stay of Trump's order – through Monday at 5PM – to consider a request for an emergency Temporary Restraining Order submitted in a challenge to the order. Here's Judge AliKhan's order halting Trump's effort to steal money Congress ordered him to spend.

The Court orders an administrative stay through 5PM on February 3rd to maintain the status quo and allow for full consideration of Plaintiffs' request for a temporary restraining order.

Here's the CourtListener docket.

Because there's a great deal of doomerism, because a lot of people spent yesterday wailing, "Why doesn't anyone do anything," I think it crucially important to lay out *who did what*, so people can understand the agency involved.

The plaintiffs in the lawsuit are, as described in the complaint, are:

National Council of Nonprofits ("NCN") is the largest network of nonprofit organizations in North America, with more than 30,000 organizational members. National Council of Nonprofits ("NCN") supports nonprofits in advancing their missions by identifying emerging trends, sharing proven practices, and promoting

solutions that benefit charitable nonprofits and the communities they serve. (Here's a flyer they did Monday on the impact of Trump's Executive Orders and here is their core values page.) To the extent that journalists are giving credit (they're not, except to Judge AliKhan), NCN will be the named plaintiff.

American Public Health Association ("APHA") is a nonpartisan, non-profit organization that champions the health of all people and all communities; strengthens the profession of public health; shares the latest research and information; promotes best practices; and advocates for public health issues and policies grounded in scientific research. APHA represents more than 23,000 individual members, who reside in all 50 states, the District of Columbia, and Puerto Rico, and also has 52 state and regional affiliates. APHA is the only organization that combines a 150-year perspective, a broad-based member community, and the ability to influence federal policy to improve the public's health. (Here's their about page.)

Main Street Alliance ("MSA") is a national network of small businesses, which represents approximately 30,000 small businesses across the United States. MSA helps small business owners realize their full potential as leaders for a just future that prioritizes good jobs, equity, and community through organizing, research, and policy advocacy on behalf of small businesses. MSA also seeks to amplify the voices of its small business membership by sharing their experiences with the aim of creating an economy where all small business owners have an equal opportunity to succeed. MSA's small business members compete for and receive various forms of what is broadly defined as "federal financial assistance," including funding in the form of grants, loans, and loan guarantees. Members also benefit directly from other recipients of federal financial assistance being able to purchase goods and services from them as a result of federal programs. (Here's their about page.)

SAGE is a New York nonprofit corporation. SAGE is dedicated to improving the lives of lesbian, gay, bisexual, and transgender adults.

Note, I've lifted this language directly from the complaint, which emphasizes that this battle pits an organization that tries to help non-profits work effectively and another that supports public health professionals, along with a number of small businesses. There's an LGBTQ group in there, which (along with some services provided by the APHA) supports a First Amendment challenge to the way the OMB member specifically targeted "transgenderism."

The Memo purports to pause all disbursements through federal financial assistance programs pending a "review" to determine whether they are "consistent with the President's policies" as expressed in several executive orders, such as one announcing that "[f]ederal funds shall not be used to promote gender ideology." The Memo further indicates that the review should identify recipients of federal funding that "advance Marxist equity, transgenderism, and green new deal social engineering policies."

But even the lawsuit also focuses main street stuff, like keeping small businesses afloat. This group of plaintiffs were presumably chosen to represent both interests that matter to right wingers, but also interests that have a specific complaint based on the way OMB wrote its memo (particularly its focus on Trans people).

Importantly, *these groups have legal standing* (because they get federal grants); members of Congress do not, which is one of several reasons why civil society is leading this fight. Here's how the complaint describes NCN's injuries arising from the halt in funding.

Many of NCN's members rely on federal grants and financial assistance to serve

their missions, from supporting research and services to those with cancer and other serious diseases, to assisting people in escaping domestic violence, to providing mental health care and suicide hotlines. Federal grants and financial assistance are the lifeblood of operations and programs for many of these nonprofits, and even a short pause in funding—which, for many NCN members, is already in the pipeline—could deprive people and communities of their life-saving services. Nonprofits often make budget decisions two to five years in advance, and they make business decisions based on expected cash inflow just as any for-profit enterprise would: making staffing decisions, setting organizational priorities, providing essential services and programs, and identifying and working towards fundraising goals. They rely on federal funds to fund entire programs, including salaries. Halting this funding would lead to pauses of important community programs, food and safety assistance, and lifesaving research, among other things: even a short pause could be devastating, decimating organizations, costing lives, and leaving neighbors without the services they need.

Finally, the real agency here: The suit was filed by Democracy Forward, which is in the business of litigating on issues like this. Here's their client list. In other words, this is a lawsuit brought by a legal organization that found plaintiffs who'll well represent the harm that cutting of federal funding will do to America, and do so in ways that personify what this attack is about.

Democracy Forward is part of a group, Democracy 2025, formed last year to challenge Trump's assault on democracy.

So the plaintiffs are here because they have

standing and because they'll be able to tell compelling stories about the injury they've suffered. Democracy Forward will be doing the heavy lifting of fighting this legally.

One reason I'm making this point is to emphasize the import of civil society, including groups that have been preparing for these legal challenges for months. As I and others have pointed out, the battle over fascism often centers on the battle over pre-existing networks of civil society, networks that often are not themselves political.

And sustain or build your networks. Not just your political networks, the folks with whom you've worked to try to elect Kamala Harris or restore reproductive rights. But your other networks, too. Sometimes, after fascists break political networks, it's the choirs or the knitting clubs where civic discourse can regrow.

The very first thing authoritarians try to break are the networks of civil society, because isolated people are easier to terrify. So make sure yours are as strong as they can be before the wrecking crew comes.

Here, civil society stood up, asserted its membership in a society linking small businesses in rural communities to aging LGBTQ people, and succeeded, for now, in pausing Trump's attack on parts of civil society that Russ Vought and Acting OMB Director Matthew Vaeth are attacking.

In those moments you're feeling particularly helpless, you might focus your energy on shoring up the strength of civil society within your own local community, even if it's no more than the knitting club.

It is likely *auspicious* that Judge AliKhan – a recent Biden appointee who worked for years as an Attorney for District of Columbia – was randomly assigned to the case. But all she has

done, so far, is preserve the status quo. The NGOs, from the service providers to the lawyers, are the people who scrambled to prevent the implementation of the order last night at 5PM.

One more point about agency. The lawsuit cites to the copy of the memo published by WaPo in its story on the halt. But as WaPo credited, it was not the first to report on the memo; independent journalist Marisa Kabas first posted it on Bluesky.

Things are definitely dire. But there are people – from journalists to NGOs to lawyers – who are doing their jobs to push back against Trump's authoritarian attack. And it's important to see that NGO networks are one of the most important bulwarks against such authoritarian attacks.