

## Brief in Favor of the Petitioner in th case of Zivotofsky v. Kerry -Noah Brasuell and Tye Vanhorn

### Case Brief

<http://www.law.cornell.edu/supct/cert/10-699>

[http://www.oyez.org/cases/2010-2019/2011/2011\\_10\\_699](http://www.oyez.org/cases/2010-2019/2011/2011_10_699)

[http://www.cadc.uscourts.gov/internet/opinions.nsf/C8DC59BCC7D10E6D85257BB10051786D/\\$file/075347-1447974.pdf](http://www.cadc.uscourts.gov/internet/opinions.nsf/C8DC59BCC7D10E6D85257BB10051786D/$file/075347-1447974.pdf)

**Statement of Argument:** The recognition of power should fall in the hands of the Congress, due to it being thoroughly stated that Congress has the power to limit the President's power. Congress has the right to limit the President's recognition power, due to the check and balances system that was established during the founding of the United States of America. The President may have the power to recognize foreign nations, however, does he have the right to recognize these nations alone. We feel that the Secretary of State has declared that this power falls in the President's power alone, while also saying Congress, in no way, can limit the recognition power given to the President.

**Argument:** According to Article 1, Section 8, Clause 11 of the United States Constitution, Congress has the right to declare war on any foreign state. Since Congress can only declare war on a state recognized by the United States, Congress can then deem whether or not that state is recognized or not. In the Hare-Hawes-Cutting Act of 1933, Congress declared the Philippines to be an independent state, therefore, further backing that Congress does indeed have the power to recognize a foreign state. With this Act, it set a precedent that Congress does have this power. In Article 2, Section 3 of the Constitution, it further states that the President has the power to receive ambassadors of other states, but allowing a choice of a place of birth entry on a passport does not significantly intrude on that power. The founding fathers did not intent on giving sole recognition power to the President due to the examples state above. Israel has been one of our closest allies for the past couple years. With this, how does this show our credibility in regards to our status in the world. If we do not stand by our allies, it does rip our credibility apart. Jerusalem is apart of the Israeli Nation. So why is it that we do not recognize Jerusalem as part of Israeli. Congress has, but yet the President and the rest of the Executive Branch refuses because Kerry feels that the they have the sole power of recognition.

**Conclusion:** Therefore, we believe that the Supreme Court should decide in favor of Zivotofsky as for the various reasons stated above. Jerusalem is under rule of Israel, and therefore Congress should, in return, have the power to recognize a state. This power is not exclusive to the President and since Congress's power is to be able to check the President's power, Congress should then be able to have this power. If you have the power to be able to declare war, why do you not have the power to recognize that state?