

**News and Current Events :: US Supreme Court Sends 'Jerusalem Passport' Case Back to Lower Court****US Supreme Court Sends 'Jerusalem Passport' Case Back to Lower Court - posted by Trekker, on: 2012/3/26 17:08**

Jews still being denied their right to exist, even by the US Government (i.e. Hillary Clinton)....Totally insane...

Jewish World

**US Supreme Court Sends 'Jerusalem Passport' Case to Lower Court**

The US Supreme Court has sent back to the lower court the question of whether a passport can list "Jerusalem, Israel" as a place of birth.

By Chana Ya'ar

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US Supreme Court  
Reuters

The US Supreme Court has returned to the lower court a decision whether Menachem Binyamin Zivotofsky's passport can list "Jerusalem, Israel" as his place of birth.

The case has made its way all the way through the entire United States court system, from the district court, through the court of appeals, and up to the highest court in the land.

But on Monday, March 26, Supreme Court justices sidestepped the delicate issue of Menachem Zivotofsky v. Hillary Clinton, as had all the adjudicators before them.

In their decision, the justices wrote, "Congress enacted a statute providing that Americans born in Jerusalem may elect to have "Israel" listed as the place of birth on their passports. The State Department declined to follow that law, citing its longstanding policy of not taking a position on the political status of Jerusalem. When sued by an American who invoked that statute, the Secretary of State argued that the courts lacked authority to decide the case because it presented a political question. The Court of Appeals so held.

"We disagree. The courts are fully capable of determining whether this statute may be given effect, or instead must be struck down in light of authority conferred on the Executive by the Constitution."

The family, noted the Court, did not ask for a determination of whether Jerusalem is the capital of the State of Israel. Rather, the case presented is simply an intention to determine whether they have the right under the law to record Jerusalem, Israel on their son's passport as his place of birth.

"That Congress took a position on the status of Jerusalem and gave Zivotofsky a statutory cause of action... is of no moment to whether the judiciary has authority to resolve this dispute... The existence of a statutory right, however, is certainly relevant to the Judiciary's power to decide Zivotofsky's claim... the only real question for the courts is whether the statute is constitutional," the justices wrote.

Moreover, the judges pointedly reminded their colleagues in the lower courts, for at least 200 years it has been common legal knowledge that the judicial branch of government is the final arbiter with regard to definition of the law— including laws determining whether one can list a particular city of birth on a passport.

"At least since *Marbury v. Madison*, 1 Cranch 137 (1803), we have recognized that when an Act of Congress is alleged to conflict with the Constitution, *it is emphatically the province and duty of the judicial department to say what the law is.*"

"That duty will sometimes involve the resolution of litigation challenging the constitutional authority of one of the three

*branches, but courts cannot avoid their responsibility merely because the issues have political implications.*

*The justices then bluntly spelled out for their colleagues in the lower courts what is next to be done:*

*"In this case, determining the constitutionality... involves deciding whether the statute impermissibly intrudes upon Presidential powers under the Constitution. If so, the law must be invalidated and Zivotofsky's case should be dismissed for failure to state a claim.*

*If, on the other hand, the statute does not trench on the President's powers, then the Secretary must be ordered to issue Zivotofsky a passport that complies...*