

TEXAS, ET AL. V. UNITED STATES, ET AL.

Fifth Circuit Court of Appeals Decision on the Emergency Stay Pending Appeal

MAY 27, 2015

On May 26, 2015, a divided panel of the Fifth Circuit Court of Appeals denied the federal government’s request for an emergency stay of the Texas federal district court’s [decision](#) (or preliminary injunction)¹ that blocked DAPA (Deferred Action for Parents of Americans and Lawful Permanent Residents) and “expanded” DACA (Deferred Action for Childhood Arrivals) from being implemented. The circuit court’s decision leaves in place, for now, the February nationwide injunction of the two major immigration actions announced by President Obama last November. When implemented, DAPA and expanded DACA will allow millions of immigrants to come forward and apply for work authorization and protection from deportation.

This decision applies only to the request for an emergency stay while the federal government’s appeal of the district court’s decision moves forward. It is not the Fifth Circuit’s final ruling on whether the district court was correct in granting the preliminary injunction and blocking the immigration actions nationwide.

While two of the three judges on the Fifth Circuit panel voted to deny the stay, one of the judges disagreed and authored a powerful dissent outlining why the order blocking the president’s immigration actions is legally and factually unsound and why the emergency stay should have been granted.

What Happens Next?

The appeal of the district court’s injunction is still pending at the Fifth Circuit, with oral argument tentatively scheduled for the week of July 6. Among its legal options, the federal government could now:

- seek review by the U.S. Supreme Court of this Fifth Circuit decision denying the motion for a stay, or
- wait for the Fifth Circuit to rule on the merits of its appeal before seeking any sort of Supreme Court review.

(For more information about potential next steps the government could take, see NILC’s [“likely scenarios”](#) fact sheet.²)

This delay will continue to have devastating consequences on our communities and economy. Legal scholars, state and local officials, and countless others have explained why DAPA and DACA will make all our communities stronger, and each day that implementation is delayed hurts all of us, native-born and immigrant alike.

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What This Decision Means

The nationwide injunction against implementing the DAPA and expanded DACA initiatives remains in place while the Fifth Circuit decides the federal government's appeal. This means that people who are eligible for the DAPA and expanded DACA initiatives should continue to prepare to apply for these initiatives, but should not yet file any applications.

The original 2012 DACA program remains in effect. The federal government's new "enforcement priorities," which were also announced last November, are also allowed to take effect.

Yesterday's decision is a disappointing setback for implementation of DAPA and the expansion of DACA, but the immigrants' rights movement is undeterred. We will continue to fight to ensure that all aspiring Americans who qualify for these important initiatives will one day soon be able to contribute more fully to the communities and country they call home.

¹ For more information, see *Texas v. United States: The Federal District Court Decision Regarding the DACA and DAPA Initiatives* (NILC, Feb. 17, 2015), www.nilc.org/TXvUSDistrictdecision.html.

² See *Update: Likely Scenarios: Texas, et al. v. United States, et al.* (NILC, May 13, 2015), www.nilc.org/document.html?id=1242.