

Brewer v. Arizona Dream Act Coalition (ADAC)

What comes next?

JUNE 27, 2017

On June 26, 2017, the U.S. Supreme Court took a step in the *Brewer v. Arizona Dream Act Coalition (ADAC)* case—the lawsuit originally brought by civil rights groups challenging Arizona’s denial of driver’s licenses to immigrants granted temporary protection from deportation under the Deferred Action for Childhood Arrivals (DACA) program. The Court did not decide whether to grant Arizona’s request that it take the case for review. Instead, the Court invited the U.S. solicitor general to weigh in by submitting additional legal briefing before the Court decides whether to take the case.

What’s this case about?

Shortly after the Obama administration launched the DACA program in 2012, then-Arizona governor Jan Brewer changed state policy to deny driver’s licenses to individuals with deferred action under DACA. The National Immigration Law Center, the American Civil Liberties Union (ACLU), the ACLU of Arizona, and the Mexican American Legal Defense and Educational Fund (MALDEF) filed suit on behalf of ADAC and individual DACA recipients in Arizona to challenge Arizona’s changed policy in court, alleging that the driver’s license ban violates DACA recipients’ constitutional right to equal protection under the law as well as the principles of federal supremacy in the area of immigration law.

The district court and the Ninth Circuit Court of Appeals have issued final decisions blocking Arizona’s policy and allowing DACA recipients to get licenses. As a result, DACA recipients in Arizona have been able to obtain driver’s licenses since 2014.

In March 2017, Arizona petitioned the U.S. Supreme Court to review the Ninth Circuit’s decision. The Supreme Court—which can choose to take the case or not—has now asked the U.S. solicitor general to submit additional briefing in the case before it decides whether to hear the case.

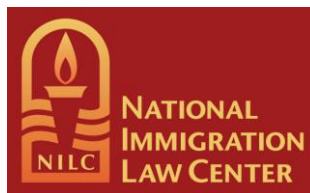
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It’s not unusual for the Supreme Court to ask the solicitor general to weigh in on cases in which a state’s policy and a federal policy are being questioned. Also, the Ninth Circuit did request the views of the federal government before in this litigation, and the U.S. Department of Justice previously supported DACA grantees’ eligibility for driver’s licenses.

The Supreme Court’s request to the current solicitor general to weigh in again does not say anything about whether the Court will ultimately decide to take the case for review. While the solicitor general does not have to submit a brief, it is common practice for the solicitor general to submit some kind of briefing in response to such Supreme Court invitations. It may take the solicitor general weeks or even months to submit additional briefing.

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It is typical for the solicitor general to meet with counsel in the case before submitting such briefing and to consult with interested departments and agencies in the federal government. Once the solicitor general submits any briefing, the Supreme Court will then decide, ultimately, whether to take the case or not. If the Court decides not to take the case, then the Ninth Circuit decision, permanently blocking Arizona's driver's license ban, will remain the final word. If the Court decides to take the case, the case will then move forward and be heard by the Court according to its regular procedures.

It's important to note that the Court's request for additional briefing does not change the current status of the DACA program. Under the Ninth Circuit's decision, which continues to apply, Arizona must continue to issue driver's licenses to all DACA recipients in Arizona who otherwise qualify. Arizona driver's licenses currently held by DACA recipients remain valid. And the DACA program remains in place and operational. (For more information about DACA under President Trump, see [New Questions and Answers About DACA Now That Trump Is President](#).¹)

What can I do now?

While we wait for the solicitor general to submit any additional briefing, it is now more important than ever to lift up the successes of the DACA program and to hold President Trump and his administration to his word. President Trump has repeatedly made statements such as that Dreamers with DACA "should rest easy" and that he would "work something out [for DREAMers] that would make people happy and proud." His administration must now live up to those promises and defend against Arizona's attack on federal immigration law. Crucially, the immigrants' rights movement must now speak out strongly and loudly to hold President Trump and his administration accountable.

The ADAC plaintiffs want nothing more than to be treated like everybody else in Arizona. To them, this means having access to the driver's licenses they need to go to school, to work, and to carry out other daily activities. Now is the time for immigrants' rights supporters to stand with immigrant youth to work to protect their right to contribute fully to their communities.

For more information about *Brewer v. ADAC*, visit www.nilc.org/adac-v-brewer-daca-dl/ or send an email message to reply@nilc.org using "Requesting information about ADAC" as the message's subject line.

¹ www.nilc.org/issues/daca/daca-after-trump-q-and-a/.