



Written by [Warren Mass](#) on September 16, 2020

Court Upholds Trump Effort to Remove “Temporary Protected Status” for Foreign Nationals

On September 14, a split three-judge panel of judges of the Ninth U.S. Circuit Court of Appeals decided in the case of *Crista Ramos et al. v. Kirstjen Nielsen et al.* to uphold the Trump administration’s drawdown of temporary protected status (TPS) designations from several countries. (Kirstjen Nielsen was a former Secretary of Homeland Security.)



The more than 400,000 foreign nationals who were granted temporary protected status have been allowed to live and work in the United States. *The Hill* reported on September 14: “In a 2-1 ruling, the three-judge panel found that a California federal judge overstepped when he temporarily barred the administration from ending temporary protected status — which gives deportation relief and work permits to individuals from designated countries in crisis — for people from El Salvador, Haiti, Sudan and Nicaragua.”

The court’s ruling could also affect TPS holders from Honduras and Nepal, who sued in a separate case that’s tied to the main case.

A post by the “ImmigrationProf Blog” (of the Law Professor Blogs Network) noted that the case had been filed by citizens of El Salvador, Nicaragua, Haiti, and Sudan and their U.S. citizen children against the Trump administration’s management of TPS.

The blog reported that the lawsuit had been filed by the ACLU Foundation of Southern California, with the National Day Laborer Organizing Network (NDLON) and the law firm of Sidley Austin LLP.

The blog post also observed: “The 2-1 decision showed a stark divide between the two conservative judges on the panel, Trump appointee Ryan Nelson and George W. Bush appointee Consuelo Callahan, and Obama appointee Morgan Christen.”

A Reuters report cited Callahan’s 54-page opinion stating that the Trump administration decisions to phase out the protections were not reviewable and therefore should not have been blocked.

Callahan also rejected a claim by plaintiffs that Trump’s past criticism of non-white, non-European immigrants influenced the TPS decisions.

“While we do not condone the offensive and disparaging nature of the president’s remarks, we find it instructive that these statements occurred primarily in contexts removed from and unrelated to TPS



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policy or decisions,” Callahan wrote.

The Hill report noted that the Trump administration has already granted extensions to the TPS, so that the earliest TPS beneficiaries from Nicaragua, Haiti and Sudan could lose their permission to reside in the United States is March 2021, and Salvadoran TPS will remain in place until at least November 2021.

However, noted the report, the plaintiffs are expected to ask for an “en banc” session, meaning they will ask the entire 9th Circuit to review the case, which potentially may mean taking it to the Supreme Court, which might delay any effects on plaintiffs.

For years, the Ninth Circuit Court of Appeals was notorious for its very liberal rulings. However, we observed in a February article, “Thanks to President Trump’s 10 appointees to the court, the radical influence of the previously liberal Ninth Circuit Court of Appeals appears to be waning.”

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