



Written by [Warren Mass](#) on March 13, 2015

## Obama Administration Appeals Ruling Blocking Immigration Amnesty Program

In an expected response to U.S. District Judge Andrew Hanen's refusal to grant a stay of his February 16 injunction that blocked the Obama administration's use of executive actions to grant amnesty to four million illegal aliens, the Department of Justice (DOJ) filed an appeal on March 12 with the U.S. 5th Circuit Court of Appeals in New Orleans.



The appeal filed by DOJ attorneys "seeks an immediate stay pending appeal of a nationwide preliminary injunction against the Department of Homeland Security (DHS)."

The injunction, issued by Hanen in the U.S. District Court for the Southern District of Texas in Brownsville, blocked the Obama administration and several of its departments and agencies (including DHS, Immigration and Customs Enforcement [ICE], and the Border Patrol) from implementing the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) program "as set out in the Secretary of Homeland Security Jeh Johnson's memorandum dated November 20, 2014."

Johnson's memorandum removed DACA's age cap and extended work authorization for illegal aliens qualifying for the program from two years to three years. It also expanded "deferred action" (another name for amnesty) to certain categories of illegal aliens, including those with a son or daughter who is a U.S. citizen or lawful permanent resident; those who have continuously resided in the United States since before January 1, 2010; and those who were physically present in the United States on the date of the memorandum.

On February 23, DOJ attorneys asked Hanen to grant a stay of his injunction, and — when he did not decide quickly — followed up on March 4 with a request for "expedited consideration" of their motion. To prompt a quick decision, they also imposed a deadline: "Absent a ruling by close of business on Monday, March 9, 2015, Defendants may seek relief from the Court of Appeals in order to protect their interests."

Instead of granting their stay, however, Hanen not only denied their motion, but on March 9 also ordered DOJ attorneys to appear in his court March 19 to answer allegations that the administration had misled him about the implementation of new immigration policies the president and Secretary Johnson ordered in November. "Due to the seriousness of the matters discussed therein, the Court will not rule on any other pending motions until it is clear that these matters, if true, do not impact the pending matters or any rulings previously made by this Court," said Hanen.

The point that Hanen wants the DOJ attorneys to explain is the administration's approval of approximately 100,000 applications for three-year work permits and temporary protection from deportation. The attorneys had previously said federal officials wouldn't accept requests under an



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expansion of DACA until February 18. But in their request for a stay, the DOJ acknowledged granting the three-year deportation reprieves during the interim period, when it was unauthorized to take such action.

The 26 states that had initiated the lawsuit (*State of Texas, et al vs. United States, et al*) against the administration resulting in Hanen's ruling filed a brief last week claiming that the administration, starting late last year, had been issuing expanded work permits, even though it had allegedly represented to Judge Hanen that it wouldn't do so until February 18. "In an apparent attempt to quickly execute President Obama's unlawful, unconstitutional amnesty plan, the Obama administration appears to have already been issuing expanded work permits," Texas Attorney General Ken Paxton said in a statement accompanying the brief.

When it became obvious that Hanen was unsympathetic to the administration's position and was unlikely to reverse himself, the DOJ, as expected, decided to appeal.

The DOJ attorneys have requested that the Fifth Circuit Court make its decision within 14 days; however, appeals in that court take an average of nine months to be resolved.

In another development in this case, 14 states (and the District of Columbia) sympathetic to the Obama administration's plan to grant amnesty to millions of people in the United States illegally filed an *amicus* brief with the Fifth Circuit Court on March 12 in support of the DOJ's motion to stay the Southern District of Texas court's injunction. Just as Texas took the lead in the suit against the administration, the state of Washington has taken the lead in the brief. Joining Washington and the District of Columbia in the *amicus curiae* are California, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maryland, Massachusetts, New Mexico, New York, Oregon, Rhode Island, and Vermont.

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