



Written by [Veronika Kyrylenko](#) on April 18, 2022

19 AGs Call on SCOTUS to Uphold “Remain in Mexico”

As the Biden administration’s immigration policies continue to ravage communities across the United States, 19 attorneys general are asking the U.S. Supreme Court to uphold a lower court’s order instructing the Biden administration to follow the law to fully reinstate the Migrant Protection Protocols (MPP), aka the “Remain in Mexico” policy.

Led by Indiana’s Todd Rokita, the state attorneys general filed an amicus brief in support of a lawsuit filed by Texas and Missouri against the Biden administration.



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“The rule of law is the framework that enables American liberty to survive and thrive,” Rokita said in [a statement](#). “The situation at our southern border provides the perfect example of how going soft on the rule of law gives rise to anarchy, chaos, and ultimately the erosion of our freedom and safety.”

The attorneys general of Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Montana, Nebraska, Ohio, Oklahoma, South Carolina, Utah, Virginia, and West Virginia have joined their Indiana colleague.

Their inquiry to the nation’s highest court reads,

Illegal immigration across the southwest border levies significant costs on States and their citizens. In recent years, States have borne costs related to education, healthcare, and other government-assistance programs serving the rising influx of illegal aliens released into the country — not to mention the human costs to vulnerable populations resulting from human trafficking and drug smuggling (particularly dangerous drugs like fentanyl) across the border.”

The “Remain in Mexico” policy, implemented under President Donald Trump in 2019, required immigrants without clear authorization to cross the southern border into the United States to either be detained or remain in Mexico while their cases are examined by U.S. immigration courts. The goal of the policy was to ensure that illegal immigrants, as well as asylum seekers, attempting to enter the United States would no longer be released into the country. Catch-and-release policies were thought to be incentivizing illegal immigration.

Thanks to the Remain in Mexico policy, the U.S. Department of Homeland Security (DHS) was able to send over 68,000 aliens to Mexico from January 2019 through December 2020, per Rokita.

The policy’s deterrent capabilities worked as intended.

“By DHS’s own account in its October 2019 memorandum, after implementing MPP, total border encounters had decreased by 64%, and border encounters with aliens specifically from El Salvador, Guatemala, and Honduras decreased by 80%,” wrote the attorneys.



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On his first day in office, President Biden [announced](#) via executive order that DHS “shall promptly review and determine whether to terminate or modify the program.” The DHS acted with lightning speed and [stated](#) the same day that it would suspend deportations of certain non-citizens in the United States for 100 days and would stop new enrollments in the MPP policy.

On June 1, 2021, the DHS [officially ended](#) the policy.

“I have determined that MPP does not adequately or sustainably enhance border management in such a way as to justify the program’s extensive operational burdens and other shortfalls,” wrote DHS Secretary Alejandro Mayorkas on the matter.

Reality has proven him wrong.

“While MPP was suspended, border encounters surged again, from around 78,000 in January 2021 to nearly 179,000 in April 2021 and then to nearly 214,000 in July 2021,” lamented the AGs.

The Biden administration is breaking the law by allowing hordes of illegal aliens to remain in the country while their cases are heard. The note further reads,

The Biden Administration ... desires less-restrictive immigration policies than Congress has authorized and has taken unlawful action to permit immediate entry of aliens with no “clear and beyond a doubt” right to be here. Rather than detain such aliens or return them to Mexico pending removal proceedings, the Biden Administration “paroles” such aliens en masse and permits them to enter the country while awaiting removal proceedings. But federal law allows the Secretary to “parole” aliens “into the United States temporarily ... only on a case-by-case basis for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A).

Texas and Missouri [sued](#) Biden’s top immigration official, claiming injury resulting from the revocation of the MPP program.

District Judge Matthew Kacsmaryk [granted their request](#) for a permanent injunction and ordered the administration to reinstate the MPP. Kacsmaryk ruled that the Biden administration had violated the Administrative Procedure Act (APA) and a part of the immigration laws called Section 1225 when it cancelled the program.

The administration appealed to the [Fifth Circuit](#) and [SCOTUS](#) and lost. Both courts denied Biden’s request to stay Kacsmaryk’s ruling.

After the loss, Mayorkas [ignored the ruling](#) and continued to release the aliens into the country. In October 2021, he issued a [new memorandum](#) terminating MPP.

The attorneys general argued in their letter that a record number of illegal aliens are expected to come through the southern border after the administration [lifted the Title 42 expulsion policy](#) on May 23, which necessitated the urgency for the Supreme Court to weigh in.

The Biden administration maintains that it inherited a flawed immigration system and says that its policies are “more humane” compared to those set in place by the previous administration. It also [claims](#) that climate change and poor governance in the Northern Triangle nations are to blame for the surge of illegal immigration into the United States.



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