



Written by [Bob Adelman](#) on December 7, 2020

Clinton-appointed Judge Orders Trump Administration to Expand DACA, Ignoring Constitution

The arrogance of a Clinton-appointed federal judge was on full display on Friday [in a ruling](#) demanding that the unconstitutional DACA program (Deferred Action for Childhood Arrivals) not only be confirmed but expanded. Ignoring the Constitution, U.S. District Court Judge Nicholas Garaufis deemed it his responsibility to punish the recalcitrant Department of Homeland Security (DHS) by demanding that it change its policy immediately and announce that change on its website no later than Monday:

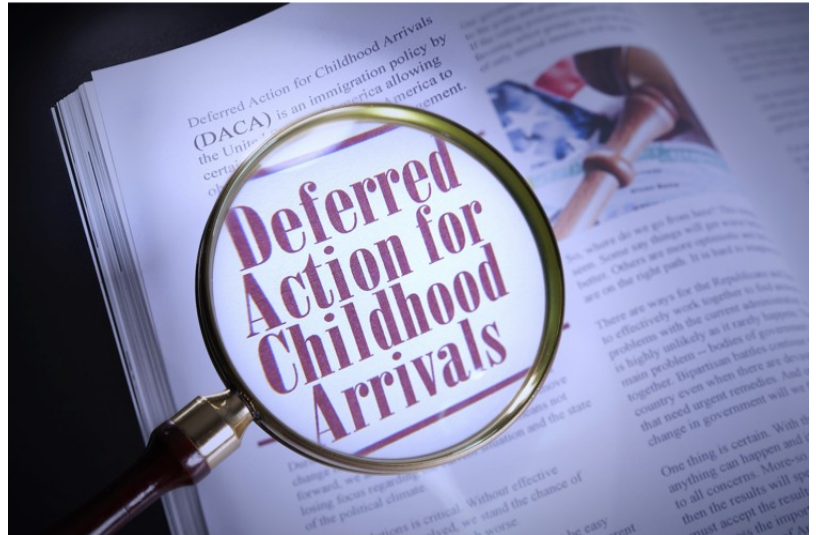


Photo: Bill Oxford / iStock / Getty Images Plus

DHS is DIRECTED [his caps] to post a public notice, within 3 calendar days of this Order, to be displayed prominently on its website and on the websites of all other relevant agencies, that it is accepting first-time requests for consideration of deferred action under DACA, renewal requests, and advance parole requests, based on the terms of the DACA program prior to September 5, 2017.

That date — September 5, 2017 — is the day that the president fulfilled his campaign promise to end the illegal and unconstitutional DACA program.

Chase Jennings, a DHS spokesman, responded to the judge's imperial decree:

DHS wholly disagrees with this decision by yet another activist judge acting from his own policy preferences. Judge Garaufis' latest decision, similar to his earlier inaccurate ruling, is clearly not sound law or logic.

We will abide by this decision while we work with [the] DOJ on [the] next steps to appeal.

At issue is the problem of how legally to resolve the problem of children of illegals who were brought to the United States. It's a congressional problem under the Constitution, but congress has repeatedly failed to act, allowing an estimated million such children to live here without knowing clearly their legal status.

President Obama took it on himself to solve the problem through an executive order issued in June 2012. Obama expanded the illegal program in November 2014. In June 2017, the Trump administration



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rescinded the expansion and then, in September, announced plans to phase it out altogether.

That's when lawsuits ensued with courts tasked with trying to sort things out. To some, it's clear: Obama was out of bounds. Wrote Jay Sekulow, chief counsel for the American Center for Law & Justice (ACLJ):

DACA ... unconstitutionally usurped Congress' role over immigration, illegally allowing certain classes of illegal aliens to violate U.S. immigration law with immunity.

The problem with DACA is that, from the beginning, it was an unconstitutional overreach by President Obama who attempt to reign like an emperor with his policies fashioned by fiat.

That's not how the Constitution works. That's not how the law works.

By sticking his nose into the problem, Obama made a bad situation worse:

By implementing a constitutionally dubious immigration action, President Obama made the situation worse. Much worse.

President Trump, said Sekulow, did the right thing: "What is done by Executive action can be undone by Executive action."

During his brief stint as Trump's attorney general, Jeff Sessions was spot on:

The executive branch [under Obama], through DACA, deliberately sought to achieve what the legislative branch specifically refused to authorize on multiple occasions. Such an open-ended circumvention of immigration laws was an unconstitutional exercise of authority by the Executive branch.

House Speaker Paul Ryan concurred:

However well-intentioned, President Obama's DACA program was a clear abuse of executive authority, an attempt to create law out of thin air. Just as the courts have already struck down similar Obama policy, this was never a viable long-term solution to this challenge.

Congress writes laws, not the president, and ending this program fulfills a promise that President Trump made to restore the proper role of the executive and legislative branches.

The imperial ruling by a Clinton-appointee illustrates the stark difference between judges who rule by fiat, enforcing their own private agendas, and judges who follow the Constitution, even when it may go against their consciences. The American Republic operates under the rule of law, not of men, even when they wear black robes.



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