



Judge: Arizona Illegals May Keep Driver's Licenses Under DACA

One month ago, U.S. District Court Judge David Campbell issued a temporary injunction that forced Arizona to permit young "DREAMers" to apply for driver's licenses. On Thursday, he made the injunction permanent.

DREAMers are young immigrants who were brought here illegally as children but have been permitted to remain under an Obama amnesty program.



The New American's Warren Mass provides some background on the DREAM Act and the Deferred Action on Childhood Arrivals (DACA) program:

DACA began with an executive action ordered by President Obama and was prompted by his frustration with the failure of Congress to pass the Development, Relief, and Education for Alien Minors Act (DREAM Act). DREAM was first introduced in the Senate in 2001 and reintroduced in the 107th through 111th Congresses. It never passed both houses, but Obama was determined to implement it anyway, and on June 15, 2012, he announced that his administration would stop deporting young illegal immigrants who met certain criteria previously proposed under the DREAM Act.

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Judge Campbell's permanent injunction overturns a 2012 executive order issued by Arizona's then-Governor Jan Brewer, which blocked young immigrants from obtaining their driver's licenses — even those living in Arizona under the DACA program.

Since President Obama's 2012 decision to grant young people ("DREAMers") deferrals from immigration proceedings and deportation, Brewer has adamantly but so far unsuccessfully fought against this flagrant violation of immigration laws.

On August 15 of 2012, Brewer ordered state officials not to accept work papers from DACA recipients. In November of 2012, a suit was filed that marked the first legal challenge against a state for denying driver's licenses to those applying under the deferred-action program.

In May of 2013, Judge Campbell issued a preliminary finding stating that the plaintiff's argument that the policy violates the Equal Protection Clause had some merit; however, he denied a request for an injunction to put the policy on hold.

To counter Campbell's preliminary finding that the policy violated the Equal Protection Clause, Brewer expanded the driver's license ban to include all non-citizens granted work permits through deferred action.

Last summer, a three-judge panel declared there to be no legitimate interest in treating the DREAMers differently. The panel argued that the state's policy was compelled by animosity to the young



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immigrants and is likely unconstitutional, ordering an injunction blocking Brewer's 2012 executive order. "We discern no rational relationship between defendants' policy and a legitimate state interest," wrote Judge Harry Pregerson for the judicial panel.

The unanimous 40-page decision ordered the case be sent back to the lower court, where Judge Campbell had denied an injunction in a suit filed on behalf of those in the federal DACA program.

Campbell ordered the state Department of Transportation to provide licenses to the young immigrants. Immigrants under DACA are required to apply for work authorization, and then to use the work papers to apply for an Arizona driver's license.

But the appeals judge declared that the policy ultimately allowed the state to "assume for itself the federal prerogative of classifying noncitizens." He added,

[Brewer's policy] appears intended to express animus toward DACA recipients themselves, in part because of the federal government's policy toward them. Such animus, however, is not a legitimate state interest.

Brewer asked for a rehearing from the entire appeals court to reconsider the 3-0 ruling, which the court denied. By November, the governor took her case to the Supreme Court to ask for a stay of the appeals court's ruling, which the Supreme Court denied.

But now the injunction has been made permanent. "This means they can keep their licenses," said Araceli Martinez-Olguin, a senior attorney for the ACLU's Immigrants' Rights Project.

The ACLU, joined by several other groups, argued that the license ban causes "irreparable harm" and discriminates against DREAMers who were given legal status under Obama's program, and pointed to other non-citizens who were permitted to receive work permits to get licenses.

Arizona's lawyers defended their policy, stating that Obama's program operated outside of immigration laws that had been passed by Congress and that any immigrants who receive work permits through the program still do not have legal presence in the United States.

Judge Campbell disagreed with this argument. "The court finds that the denial of driver's licenses has caused plaintiffs irreparable harm," he wrote, adding, "Plaintiffs have been unable to pursue new jobs or develop business opportunities because of their inability to drive."

Over 20,000 DREAMers in Arizona have received work permits through DACA.

When the temporary injunction was issued in December, Governor Brewer voiced her objections in a press release, declaring,

It is outrageous that Arizona is being forced to ignore longstanding state law and comply with a flawed federal court mandate. It is important to remember that courts have yet to consider the full merits of the case, and I believe that Arizona will ultimately prevail.

It's uncertain whether Doug Ducey, Arizona's new governor who took office on January 5, will continue to pursue the case to the Supreme Court. Ducey's spokesman Daniel Scarpinato said the governor is reviewing the ruling.

Meanwhile, the federal government is currently working to expand the president's deferred-action program. The *Arizona Republic* reports, "The new version will eliminate an age cap, allowing even more dreamers to apply. It will also allow dreamers to receive deportation deferments and work permits for



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three years instead of two.”

Obama’s November executive actions on immigration include a separate deferred-action program for undocumented parents with U.S. citizen children. Approximately four million undocumented parents may be eligible for deportation deferments and work permits under that provision, which is set to take effect in May.

But on January 14, the House of Representatives voted to deny funds for new or renewed applications under the DACA program, arguing tthat the program has only encouraged children to make their way from Central America across the U.S. border, thinking that they will be allowed to stay.

“Make no mistake about it: this program has become a magnet for drawing children from Central America,” declared Representative Tom Marino (R-Pa.).

If the bill passes the Senate, it risks a veto from Obama. But even then, the DHS will not have the necessary funding after February.



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