



Written by [Warren Mass](#) on July 1, 2015

Judge Hanen Reprimands Feds for Violating Order Against Executive Amnesty

U.S. District Judge Andrew Hanen of the U.S. District Court in Brownsville, Texas, who issued an injunction on February 16 blocking President Obama's executive action to grant amnesty to four million illegal aliens, recently berated Justice Department lawyers for ignoring his order.

The San Antonio *Express-News* reported on June 23 that Hanen — expressing apparent frustration at the Obama administration's foot dragging — told Justice Department lawyers at a hearing in Brownsville that day: "I expect you to resolve the 2,000; I'm shocked that you haven't. If they're not resolved by July 31, I'm going to have to figure out what action to take."



The "2,000" that Hanen referred to was the number of three-year work permits that the administration had issued to illegal immigrants in violation of his injunction.

The *Express-News* reported that Justice Department attorneys apologized to Hanen for a lapse in correcting the continuation of the deferred action program, which they said was an error that inadvertently gave the longer reprieves and work authorizations in violation of Hanen's injunction.

Jennifer Ricketts, a Justice Department attorney, said the error occurred as the government was preparing its appeal on the temporary injunction to Fifth Circuit Court of Appeals in New Orleans. She said that as soon as the error was identified, corrective steps were begun to reverse the action.

Hanen was visibly frustrated by the delay in changing the three-year work permits to two-year ones and asked the government attorneys: "How hard is it to correct your own computer system? How hard is it to change a three to a two?"

Hanen told the government attorneys that if they did not promptly correct the mistake, he would consider imposing sanctions, an action he has taken only twice during the past 14 years.

The June 23 hearing was not the first time that Hanen expressed frustration with DOJ attorneys or suggested that they had misled him. During an April 7 hearing held to hear the arguments of DOJ attorneys who sought an "Emergency Expedited Motion to Stay" his injunction, Hanen said that he first wanted to hear from the attorneys concerning allegations that they had misled him about the implementation of the Obama administration's executive orders protecting some illegal aliens from deportation.

When Hanen issued his initial injunction on February 16, he believed that the administration's protective orders had not taken effect. However, a month later, the Justice Department confirmed that more than 108,000 people had already received three-year reprieves from deportation and had been



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issued work permits. In defending their actions, DOJ attorneys claimed the moves were made under 2012 guidelines that weren't blocked by the injunction.

At a hearing on March 19, Hanen reprimanded Justice Department attorney Kathleen Hartnett for providing him with inaccurate information at a previous hearing in January.

Hartnett told Hanen in January that an expansion of the 2012 Deferred Action for Childhood Arrivals program, known as DACA, would not begin until February 18 — two days after Hanen issued his injunction. However, Hanen subsequently learned that the administration had previously approved the 108,081 applications for three-year work permits and temporary protection from deportation following the administration's November executive actions, before Hanen's injunction blocked the program.

Hanen was visibly irritated by the apparent deception and in recounting what the DOJ attorneys had told him back in January told Hartnett: "Like the judge, the states [that initiated the lawsuit against the Obama administration] thought nothing was happening. Like an idiot, I believed that."

Hartnett — whom the AP reporter covering the hearing described as "flustered" — was apologetic in her response to Hanen's charge, telling him: "We strive to be as candid as possible. It truly became clear to us there was confusion on this point."

The *Los Angeles Times* reported that Hartnett told Hanen: "I would like to apologize for any confusion." She continued moments later: "We had no intent to withhold any of this material from the court."

Hartnett said DOJ attorneys immediately notified the court when they realized "we may have inadvertently caused confusion."

Hanen seemed skeptical about her explanation, however, and stated: "So you waited three weeks to tell me you were doing it?"

In his April 7 ruling, Hanen referenced what he believes were "misleading" statements by Obama administration attorneys and noted that the 26 plaintiff states (whose suit against executive actions President Obama and Homeland Security Secretary Jeh Johnson took in November had prompted Hanen's injunction) had made the same charge. He noted:

In their discovery motion, Plaintiffs complain that the Government misled them and the Court by making certain representations concerning when and how parts of the 2014 DHS Directive would be implemented. The Court finds that the Government's multiple statements on this subject were indeed misleading.... It also finds that the remedial measure taken by counsel for the Government through the filing of an "advisory" on March 3, 2015, was neither prompt nor fully candid.

However, continued Hanen, even though he believed that some sanctions against the federal government were justified, he would not "strike [dismiss] the government's pleadings" because it was in the national interest that further hearings continue. He wrote:

Despite this, a sanction as severe as striking the Government's pleadings, while perhaps merited based upon the Government's misconduct, would not at this juncture be in the interests of justice or in the best interest of this country. The issues contested in this case are of national importance, and the outcome will affect millions of individuals.... Consequently, while this Court may impose some other sanction in response to the misrepresentations made to the Court, it will not strike the Government's pleadings.

And so, as we have seen in reports about the latest hearing on June 23, Hanen's protracted struggle with the Obama administration over compliance with his injunction continues. From reports, it appears



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that the administration has mastered the art of passive-aggressive behavior — one definition of which is: “the indirect expression of hostility, such as through procrastination, stubbornness, sullenness, or deliberate or repeated failure to accomplish requested tasks for which one is responsible.”

Hanen’s frustration is an indication that he is on to the administration’s game, and is not afraid to say so.

“There’s no doubt with regards to the 2,000 [three-year work permits] that the government violated the injunction,” Hanen said.

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