



Written by [Warren Mass](#) on July 9, 2015

Judge Hanen Sets August 19 Hearing for DHS Officials to Avoid Contempt Charges

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, issued an order on July 7 in which he berated the Obama administration for reneging on its May 7 promise to take "immediate steps" to remedy its violations of his injunction. Because the situation has not been rectified, noted the judge, the court has set a hearing for August 19, at which each defendant "must attend and be prepared to show why he or she should not be held in contempt of Court."

Hanen issued the February injunction at the request of a coalition of 26 states, led by Texas, which have filed a lawsuit (*State of Texas, et al v. United States of America, et al*) to stop the Obama administration's executive action, saying it is unconstitutional. Since his latest order is issued pursuant to that lawsuit, the "defendants" that he names generically in his order include the defendants in the original suit, which includes, in addition to the United States of America, which is generally represented by Department of Justice attorneys: Secretary of Homeland Security Jeh Johnson, Commissioner of U.S. Customs and Border Protection R. Gil Kerlikowske, Deputy Chief of the U.S. Border Patrol and U.S. Customs and Border Protection Ronald D. Vitiello, Principal Deputy Assistant Secretary for U.S. Immigration and Customs Enforcement Thomas S. Winkowski, and Director of U.S. Citizenship and Immigration Services Leon Rodriguez.

"In addition to the individual Defendants, the Government shall bring all relevant witnesses on this topic as the Court will not continue this matter to a later date," Hanen also wrote.

Hanen has repeatedly criticized Obama administration officials for dragging their feet in complying with his injunction. The San Antonio *Express-News* reported on June 23 that the judge expressed obvious frustration at the Obama administration's lack of compliance when he 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.

DHS Secretary Johnson sent an executive action memorandum last November to the heads of U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection expanding "deferred action" (another name for amnesty) by directing "USCIS to establish a process, similar to DACA, for exercising prosecutorial discretion through the use of deferred action to certain categories of individuals, principally those who had a son or daughter who is a U.S.



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citizen or lawful permanent resident.”

Hanen’s injunction banned the government from implementing the action directed by Johnson, which included extending two-year work permits for qualifying illegal aliens to three years. Justice Department attorneys apologized to Hanen for a lapse in correcting the expansion of DACA, which they said was an error.

Hanen was visibly frustrated by the delay in changing the three-year work permits to two-year ones, and at the June 23 hearing, 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?”

The judge 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.

Hanen’s July 7 order indicated that he was losing patience with the Obama administration’s lack of compliance. He gave the parties to the suit until July 31 to file a status report with his court about progress made to reverse DHS’s implementation of Johnson’s November 20, 2014 memorandum that had begun before Hanen issued his injunction on February 18. According to the order, DHS had granted benefits pursuant to Johnson’s memorandum to 108,800 individuals.

But Hanen had another objection to resolve. He noted that the July 31 status report still “does not resolve the issue as to the approximately 2,000 individuals that were given various benefits in violation of this Court’s order after the injunction was issued.”

Hanen said the government first informed him of its violations of his injunction on May 7, and admitted that it had violated the injunction on at least 2,000 occasions and that those violations “have not yet been fixed.” He complained that even though the court was willing to believe that the violations were accidental, he was “shocked and surprised at the cavalier attitude the Government has taken with regard to its ‘efforts’ to rectify this situation.”

Furthermore, noted Hanen:

The Government promised this Court on May 7, 2015, that “immediate steps” were being taken to remedy the violations of the injunction.... Yet, as of June 23, 2015 — some six weeks after making that representation — the situation had not been rectified. With that in mind, the Court hereby sets a hearing for August 19, 2015, at 10:00 a.m.

Hanen has given the government officials one final chance:

If the Government remedies this situation and comes into compliance with this Court’s injunction by July 31, 2015, it shall include a summary of that situation in the July 31, 2015 report to the Court. If the Court is satisfied with the Government’s representations, it will cancel the August 19, 2015 hearing. Otherwise, the Court intends to utilize all available powers to compel compliance.

If “the government” (that is, the Departments of Homeland Security and Justice) believes that it can wear Hanen down though repeated stalling, they may have underestimated the judge. He has exhibited dogged persistence throughout the history of this case and has shown no signs of letting the Obama administration off the hook.

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