



Written by [Warren Mass](#) on March 6, 2015

Obama Administration Asks Judge to Expedite Consideration of Immigration Order Stay

In an advisory filed in the U.S. District Court for the Southern District of Texas in Brownsville on March 4, Obama administration attorneys requested “expedited consideration” of their February 23 motion seeking a stay of District Judge Andrew S. Hanen’s February 16 injunction that blocked the Obama administration’s use of executive actions to grant amnesty to four million illegal aliens.



The administration attorneys asked Hanen to issue a ruling on their request for a stay of his earlier decision by the close of business on Monday. Turning up the pressure a bit, they stated: “Absent a ruling by close of business on Monday, March 9, 2015, Defendants may seek relief from the Court of Appeals in order to protect their interests.”

An appeal would go to the United States Court of Appeals for the Fifth Circuit in New Orleans, which has appellate jurisdiction over the district court in Texas. Appeals in that court take an average of nine months to be resolved.

Josh Gerstein, a White House reporter for *Politico*, noted in a February 19 article that the Fifth Circuit Court “is considered the nation’s most conservative appeals court.” Gerstein noted that if the Fifth Circuit rules against the Obama administration, it could ask the Supreme Court to allow the administration’s “deferred action” program to proceed while the legal battle continues.

Hanen’s February 16 ruling was made in response to a lawsuit filed by Texas and 25 other states against the federal government following President Obama’s November 20 announcement that he would unilaterally suspend immigration law as applied to four million illegal immigrants.

In the suit (*State of Texas et al v. United States of America et al*) the plaintiffs charged: “The President candidly admitted that, in so doing, he unilaterally rewrote the law: ‘What you’re not paying attention to is, *I just took an action to change the law.*’ ” (Emphasis in original.)

Hanen’s injunction barred the federal government, and specifically Homeland Security (DHS) Secretary Jeh Johnson, from implementing the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) program described in Johnson’s November 20 memorandum. That memorandum expanded DACA by removing its age cap and extending work authorization to three years. It also ordered United States Citizenship and Immigration Services (USCIS) to exercise prosecutorial discretion through the use of deferred action. “Prosecutorial discretion,” basically allows USCIS to delay the deportation of many illegal aliens indefinitely.

Hanen’s memorandum opinion order explaining his reasoning behind his decision listed several reasons why he believes the plaintiffs’ arguments are valid and that temporary relief is justified. Among these:

- “The Supreme Court has stated time and again that it is the duty of the federal government to protect the border and enforce the immigration laws.”



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- “The Government has sought and obtained rulings that preempt all but token participation by the states in this area of the law.”
- “The fact that DAPA undermines the INA statutes enacted to protect the states puts the Plaintiffs squarely within the zone of interest of the immigration statutes issue.”
- “Congress has entrusted the DHS with the duty to enforce these immigration laws.... DAPA, however, is certainly at odds with these commands. These duties were enacted to protect the states because, under our federal system, they are forbidden from protecting themselves.”

Hanen also wrote that without a preliminary injunction the states will “suffer irreparable harm in this case.”

Reuters reported that on March 5 Hanen declined to comment while the case is ongoing.

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