



Obama Administration Planning to Circumvent Judge's Order Against Amnesty

A recently leaked internal DHS memorandum has revealed that the Obama administration is planning to circumvent U.S. District Judge Andrew Hanen's February 16 injunction that blocked President Obama's executive action to grant amnesty to four million illegal aliens. The contents of the memo were made public in a report published by the Washington, D.C.-based *The Hill* on November 2.



After Judge Hanen issued his injunction, the Obama administration appealed his decision to the U.S. Court of Appeals for the Fifth Circuit, in New Orleans, but that court decided on May 25 to let the judge's decision stand. Hanen's ruling was issued in response to a lawsuit filed by Texas and 25 other states against executive actions President Obama and Homeland Security Secretary Jeh Johnson took in November 2014. The injunction enjoined the federal government, and specifically Secretary Johnson, from implementing the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) program described in Johnson's November 20, 2014 memorandum.

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

Though things were apparently smoothed over enough so that no administration official was held in contempt, *The Hill's* report, written by Ian M. Smith, an investigative associate with the Immigration Reform Law Institute, suggests that at least some federal officials from the DHS have decided to take an end run around the injunction. As *The Hill* reports:

The internal memo reveals four options of varying expansiveness, with option 1 providing EADs [Employment Authorization Documents] to "all individuals living in the United States," including illegal aliens, visa-overstayers, and H-1B guest-workers, while option 4 provides EADs *only* to those on certain unexpired non-immigrant visas. Giving EADs to any of the covered individuals, however, is in direct violation of Congress's Immigration & Nationality Act and works to dramatically subvert our carefully wrought visa system. [Emphasis in original.]

The Hill summarized the exposure of the DHS memo in the following bottom line: "The memo foreshadows more tactical offensives in a giant administrative amnesty for all 12 million illegal aliens who've broken our immigration laws (and many other laws) that will emerge before the next inaugural in January 2016."

At the end of the report, Smith speculates whether the 26 plaintiff states that filed the lawsuits against such amnesty-by-executive-action procedures that resulted in Hanen's injunction will bring this DHS memo to the Fifth Circuit Court's attention, before that court issues its final decision on the Obama



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administration's ongoing appeal of Hanen's injunction.

The court has been taking its time in issuing a final ruling on the case, much to the consternation of Obama administration officials. If the court does not issue a ruling soon, it will be too late for either side to appeal the ruling to the Supreme Court during this court term, and the matter will unlikely be settled until after Obama leaves office.

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