



Obama DOJ Appeal of Federal Judge's Injunction Set for April 17

The U.S. Court of Appeals for the Fifth Circuit will hear oral arguments from both sides in the Department of Justice's appeal of U.S. District Judge Andrew Hanen's February 16 injunction that blocked the Obama administration's use of executive actions to grant amnesty to four million illegal aliens. After Hanen declined to grant a stay of his injunction, the DOJ filed its appeal on March 12 in the New Orleans appellate court.



The appeals court said each side will have an hour to present their arguments for or against the injunction during the April hearing.

Hanen's injunction was issued at the request of 26 plaintiff states, who charged in the suit (*State of Texas et al v. United States of America et al*): "The President candidly admitted that, in [suspending enforcement of deportation by means of executive actions], 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.)

The states' argument is based on the constitutional separation of powers that reserves law making to the legislative branch — Congress.

Since appeals in the Fifth Circuit Court take an average of nine months to be resolved, the setting of the April date represents a fast-tracking of the case, something that the DOJ has sought.

"It all shows how the 5th Circuit seems to recognize that it is a very important case," said Carl Tobias, law professor at the University of Richmond, as quoted by MSNBC.

The network also quoted an observation from Melissa Crow, legal director at the American Immigration Council, who said she was surprised to that the court will allow hour-long oral arguments from both sides before making a determination on the DOJ's request for an emergency stay.

"It is highly unusual for courts to schedule oral arguments on requests for an emergency stay and it's even more unusual for each side to have an hour of legal arguments," Crow said.

A number of states have filed *amicus(i) curiae* (friend[s] of the court) briefs in support of either the Department of Justice or the states that brought the suit against the Obama administration. Fourteen states (and the District of Columbia) which are sympathetic to the Obama administration's plan to grant amnesty to millions of illegal aliens filed an amicus brief with the Fifth Circuit Court on March 12 in support of the DOJ's motion to stay the Southern District of Texas court's injunction. Joining Washington (the lead state) and the District of Columbia in the *amicus curiae* were California, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maryland, Massachusetts, New Mexico, New York, Oregon, Rhode Island, and Vermont.

Several other states filed an *amici curiae* brief with the Fifth Circuit Appeals Court defending Hanen's preliminary injunction. On March 23, the governors of Texas, Louisiana, New Jersey, and South Dakota



Written by [Warren Mass](#) on March 26, 2015

filed their brief and offered as their reasons: “First, the injunction protects the executive branches in the Governors’ States from irreparable injuries.”

And, “Second, the Amici Governors have an interest in rebutting the arguments offered by the State of Washington on behalf of 13 other States.”

The brief stated:

The question presented is whether the President can unilaterally legalize the presence of millions of people and unilaterally give them myriad legal benefits, including work permits, Medicare, Social Security, and tax credits. This is not a debate over “national immigration policy.”

The decision by New Jersey Governor Chris Christie to add his state to the brief surprised many political observers, since New Jersey was not one of the plaintiffs in *State of Texas et al v. United States of America et al*. Furthermore, there has not been as much public opposition to the Obama immigration actions in New Jersey as in many other states. Some see Christie’s action as an attempt by the middle-of-the-road governor to improve his image among party conservatives and help his faltering efforts to seek the 2016 GOP nomination.

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