



Written by [Warren Mass](#) on March 20, 2015

U.S. Judge in Texas May Order Sanctions If Obama Justice Dept. Misled Him

U.S. District Judge Andrew S. Hanen, who  issued an order of temporary injunction on February 16 blocking implementation of the Obama administration's use of executive actions to grant amnesty to four million illegal aliens, reprimanded Justice Department attorney Kathleen Hartnett at a hearing on March 19 for providing him with inaccurate information at an earlier hearing in January.

Hartnett told Hanen at that hearing 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 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.

During a March 9 hearing, Hanen denied the DOJ's request for "expedited consideration" of their motion seeking a stay of his injunction, and also ordered the attorneys to appear in his court March 19 to answer allegations that the administration had earlier misled him.

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, prompting Hanen's injunction] 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?"

Hanen expressed his sense that the administration's withholding of pertinent information about its expansion of the DACA program had compromised its credibility and asked Hartnett whether Homeland Security Secretary Jeh Johnson or other senior officials could be trusted on the immigration plan.

"I can trust what Secretary Johnson says ... what President Obama says?" the judge asked.

"Yes, your honor, of course," Hartnett replied.

A challenge to the DOJ's appeal of Hanen's injunction was brought earlier this month by the 26 states



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that had initiated the lawsuit (*State of Texas, et al vs. United States, et al*) that resulted in Hanen's injunction. In that brief, the states claimed that the administration, starting late last year, had been issuing expanded work permits, even though it had allegedly represented to Judge Hanen that it wouldn't do so until February 18.

"In an apparent attempt to quickly execute President Obama's unlawful, unconstitutional amnesty plan, the Obama administration appears to have already been issuing expanded work permits," Texas Attorney General Ken Paxton said in a statement accompanying the brief.

Texas Assistant Attorney General Angela Colmenero, representing Texas and the 25 other states, said she understood "that this is a big, complex federal program," but that the states needed to rely on "additional documents and not just the words" of Justice Department lawyers.

Colmenero charged the DOJ did not inform the court of the 108,000 approvals until 15 days after Hanen issued an injunction halting the immigration program. "The plaintiffs were more than surprised by this disclosure," she said.

Granting the deferred action applications prior to the original February 18 deadline makes it less likely that illegal immigrants will leave the United States and will encourage other immigrants to enter the illegally, Colmenero said. Furthermore, she asserted, now that the applications have been granted, it is "virtually impossible to unscramble the egg."

The states have asked Hanen to consider issuing sanctions against the DOJ because its attorneys had made "representations [that] proved not to be true or at a minimum less than forthcoming," said Colmenero.

To which, Hartnett countered: "There is absolutely no basis for sanctions here. The government is absolutely trying to do the right thing."

As disenchanted as he appeared to be with the DOJ, Hanen also seemed somewhat reluctant to impose sanctions because, if he did so, "the taxpayers of the [26 plaintiff] states would end up paying their own damages."

When Hanen asked Hartnett whether U.S. taxpayers would ultimately pay for any sanctions imposed on the Justice Department, she offered a noncommittal response and he pressed her further. "Answer my question," he demanded.

"Ultimately, yes," Hartnett responded.

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