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Obama's Immigration Policy Blocked Due to Equally Divided Supreme Court

Publication — 6/24/2016

A 4-to-4 decision by the Supreme Court on a challenge to President Obama's immigration reform policy means that the policy continues to be blocked, disappointing five million undocumented immigrants who had hoped to stay and work in our country. The failure of the Court to come to a majority decision leaves a nationwide injunction by a Texas court in place, preventing implementation of the new immigration policy. *United States v. Texas*, 579 U.S. ____ (2016). The short nine word opinion fails to provide any reasoning for the Court's decision or establish clear precedent.

DACA and DAPA Programs

At issue is President Obama's November 2012 and 2014 immigration programs that would allow more undocumented immigrants to apply for the Deferred Action for Childhood Arrivals (DACA) and Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) programs. The pre-existing DACA program granted temporary two-year work permits to 1.2 million young people brought to the U.S. by their parents and remains unaffected. The administration's new immigration policy sought to expand the DACA program, which allows eligible young people to apply for work permits and deportation deferrals, by increasing the deferral period from two to three years and eliminating the requirement that applicants be under 31 year old. Under the new DAPA policy, which applies to parents of children who are U.S. citizens or lawful permanent residents, undocumented parents would be permitted to stay in the United States for three years and work here legally.

States Sued To Stop Obama's Immigration Reforms

Before the President's policy could go into effect, Texas and twenty-five other states went to court and got an injunction preventing implementation of the policy. The states asserted that the Obama administration did not have the authority to issue new immigration policy, arguing that sweeping immigration policy of this sort must be passed through Congress, not by the executive branch. In early 2015, a federal court in Texas issued an injunction blocking the enactment of the new policy while the legal issues were resolved. An appeals court upheld that ruling, leading to the appeal to the Supreme Court.

Next Steps For Immigration Reform

The federal government has the option of filing a rehearing petition in the Supreme Court, hoping for a different result if, and when, a ninth Justice is seated on the Court. Absent that, the case essentially goes back to the federal district court in Texas for further proceedings on the actual claims in the case. Because that judge had issued the preliminary injunction

believing that the states would prevail on their claims, the government will have an uphill battle getting its policy through. In the meantime, the immigration reform is blocked, leaving an estimated five million undocumented workers and their children without relief.

If you have questions about this ruling, please contact me at RYTsai@hollandhart.com.