
DHS v. Regents of the University of California (No. 18-587); *Trump v. NAACP* (No. 18-588); *Wolf v. Vidal* (No. 18-589)

Introduction: Today, the Supreme Court—in a 5-4 decision—invalidated the Trump Administration’s rescission of the Deferred Action for Childhood Arrivals (“DACA”) program, which provides protection against deportation and work authorization for 700,000 undocumented individuals who were brought to America as children. Mayer Brown submitted an amicus brief—which the Court cited—on behalf of 143 trade associations and businesses in support of the challengers of the Administration’s action.

Background: The DACA program was instituted by the Obama Administration in 2012 to allow people who arrived in the United States as children and who satisfy specific standards to apply for protection against deportation and for the ability to work lawfully. As of 2017, DACA had benefited some 700,000 people, whose average age was just under 24 years old.

Issues: Whether the Administration’s decision to rescind DACA is subject to judicial review; whether that decision violated the Administrative Procedure Act (“APA”); and whether the decision to rescind DACA violated the equal protection guarantee of the Fifth Amendment.

Court’s Holding: In an opinion written by Chief Justice Roberts and joined by Justices Ginsburg, Breyer, Sotomayor, and Kagan, the Court held that the rescission decision is subject to judicial review and failed to comply with the APA’s requirement that an agency provide a reasoned explanation for its action. The Court explained that the agency did not consider whether to continue to provide DACA beneficiaries with protection against deportation, even if it decided to eliminate work authorization. It further explained that the agency also failed to take account of the reliance by DACA recipients and others—including employers, educational institutions, and state and local governments—on the existence of the DACA program. The Court therefore remanded the matter to the Department of Homeland Security “so that it may consider the problem anew.” That decision leaves in place the Obama Administration’s 2012 DACA policy.

All Members of the Court other than Justice Sotomayor rejected the argument that the DACA rescission violated the equal protection guarantee of the Fifth Amendment. Justice Sotomayor wrote a separate opinion dissenting from that determination.

Justice Thomas, joined by Justices Alito and Gorsuch, dissented from the majority’s APA holding. And Justices Alito and Kavanaugh filed separate dissents with respect to the APA holding.