Trump Administration Rescinds DAPA Program

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DHS Secretary Kelly has rescinded DAPA (Deferred Action for Parents of Americans and Lawful Permanents). DAPA was meant to 1) provide undocumented parents of U.S. citizens or Green Card holders with a way to remain in the U.S. with work authorization and 2) expand DACA (Deferred Action for Childhood Arrivals) by encompassing a wider range of ages and arrival dates and lengthening the duration of deferred action and work authorization per application from two to three years. Created by President Obama by an executive order, DAPA was quickly enjoined by the courts as an unacceptable expansion of executive power. The Obama administration appealed to the Supreme Court, and just one year ago, the lower court ruling was affirmed by default as a result of the Supreme Court deadlocking at 4 to 4. The case has since been stalled.

Secretary Kelly made it clear that his memorandum does not affect DACA's original terms. DACA recipients will continue to be eligible for two-year extensions. "DACA recipients who were issued three-year extensions before the district court's injunction will not be affected, and will be eligible to seek a two-year extension upon their expiration. No [DACA] work permits will be terminated prior to their current expiration dates."

This action is consistent with President Trump's campaign promise to deport people who are in the country illegally. The Secretary noted that the order was rescinded because there "wasn't a credible path forward" in terms of litigation. How Justice Gorsuch rules on President's Trump's revised travel ban executive order may provide some insight into how the Supreme Court might have ruled on DAPA had the Court had its full complement of justices to consider that executive action.