

United States District Court
Southern District of Texas
ENTERED

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

FEB 16 2015

David J. Bradley, Clerk of Court

STATE OF TEXAS, ET AL.,
Plaintiffs,

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V.

CIVIL NO. B-14-254

UNITED STATES OF AMERICA, ET AL.,
Defendants.

ORDER OF TEMPORARY INJUNCTION

The Court having found that at least one Plaintiff has satisfied all the necessary elements to maintain a lawsuit and to obtain a Temporary Injunction hereby grants the Motion for Temporary Injunction [Doc. No. 5]. The United States of America, its departments, agencies, officers, agents and employees and Jeh Johnson, Secretary of the Department of Homeland Security; R. Gil Kerlikowske, Commissioner of United States Customs and Border Protection; Ronald D. Vitiello, Deputy Chief of United States Border Patrol, United States Customs and Border Protection; Thomas S. Winkowski, Acting Director of United States Immigration and Customs Enforcement; and Leon Rodriguez, Director of United States Citizenship and Immigration Services are hereby enjoined from implementing any and all aspects or phases of the Deferred Action for Parents of Americans and Lawful Permanent Residents (“DAPA”) program as set out in the Secretary of Homeland Security Jeh Johnson’s memorandum dated November 20, 2014 (“DAPA Memorandum”), pending a final resolution of the merits of this case or until a further order of this Court, the United States Court of Appeals for the Fifth Circuit or the United States Supreme Court. The reasons for this injunction are set out in detail in the accompanying Memorandum Opinion and Order, but, to summarize, it is due to the failure of the Defendants to comply with the Administrative Procedure Act.

For similar reasons, the United States of America, its departments, agencies, officers, agents and employees and Jeh Johnson, Secretary of the Department of Homeland Security; R. Gil Kerlikowske, Commissioner of United States Customs and Border Protection; Ronald D. Vitiello, Deputy Chief of United States Border Patrol, United States Customs and Border Protection; Thomas S. Winkowski, Acting Director of United States Immigration and Customs Enforcement; and Leon Rodriguez, Director of United States Citizenship and Immigration Services are further enjoined from implementing any and all aspects or phases of the expansions (including any and all changes) to the Deferred Action for Childhood Arrivals (“DACA”) program as outlined in the DAPA Memorandum pending a trial on the merits or until a further order of this Court, the Fifth Circuit Court of Appeals or the United States Supreme Court.

In addition to any other relief provided by law, the Defendants are given leave to reapproach this Court for relief from this Order, in the time period between the date of this Order and the trial on the merits, for good cause, including if Congress passes legislation that authorizes DAPA or at such a time as the Defendants have complied with the requirements of the Administrative Procedure Act. The parties are ordered to meet and confer and formulate and file with the Court by February 27, 2015 an agreed upon (to the extent possible) schedule for the resolution on the merits. The Court will hold a conference call among counsel after it reviews this submission.

The Court has considered the issue of security as per Rule 65(c) of the Federal Civil Rules of Procedure. It finds that the Defendants will not suffer any financial loss that warrants the need for the Plaintiffs to post security. The Fifth Circuit has held that a district court has the discretion to “require no security at all” and the Court hereby exercises that authority based upon the facts and circumstances of the case, the issues being decided and the parties involved.

Kaepa, Inc. v. Achilles Corp., 76 F.3d 624, 628 (5th Cir. 1996); *see also Corrigan Dispatch Co. v. Casa Guzman, S.A.*, 569 F.2d 300 (5th Cir. 1978); Wright & Miller, *Federal Practice and Procedure*, § 2954.

Signed this 16th day of February, 2015.

A handwritten signature in black ink, appearing to read 'Andrew S. Hanen', written over a horizontal line.

Andrew S. Hanen
United States District Judge