

Judge orders full restart of DACA program

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Político, 08/03/2018



Homeland Security Secretary Kirstjen Nielsen wrote a June memo that the judge singled out for criticism. He wrote it offered “nothing even remotely approaching a considered legal assessment” about DACA. | Alex Brandon/AP Photo

A D.C.-based federal judge on Friday ordered the Trump administration to restart in full the Deferred Action for Childhood Arrivals program.

The decision is the latest legal blow against President Donald Trump’s decision to phase out the Obama-era program, which offers deportation relief to undocumented immigrants brought to the United States as children.

The restart won’t be immediate. U.S. District Judge John Bates said Friday that the order would be delayed until Aug. 23 to allow the government to appeal, but he denied a Justice Department motion to reconsider his earlier decision, saying there were still deficiencies in the administration's rationale for rescinding DACA.

“The court has already once given DHS the opportunity to remedy these deficiencies — either by providing a coherent explanation of its legal opinion or by reissuing its decision for bona fide policy reasons that would preclude judicial review,” said Bates, “So it will not do so again.”

Bates in April became the third federal judge to order the administration to restart renewals for people previously approved for DACA.

He also threatened to vacate the memo ending DACA — and thereby restore the program in full — if Trump officials could not present an adequate reason for ending it.

In a 25-page opinion Friday, Bates, an appointee of former President George W. Bush, rejected the administration's argument that the original decision to end DACA remained sound.

Specifically, he criticized a June memo issued by Homeland Security Secretary Kirstjen Nielsen. In the memo, Nielsen said she stood by the legal rationale laid out in a Sept. 5 directive from then-acting Secretary Elaine Duke.

Bates said the Nielsen memo, like Duke's before it, "offers nothing even remotely approaching a considered legal assessment that this court could subject to judicial review."

More than 700,000 undocumented immigrants are enrolled in the DACA program, according to the latest statistics.

If Friday's ruling goes into effect later this month, the administration will be required to accept new applications from people who meet DACA's eligibility requirements.

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