

US Supreme Court hears oral arguments on Trump's decision to end DACA

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As several hundred demonstrators gathered outside the Supreme Court building during oral arguments on Tuesday, the high court's right-wing majority of justices signaled its approval of the Trump administration's 2017 decision to end the Deferred Action for Childhood Arrivals (DACA) program. A 5–4 decision favoring Trump appears likely, leaving 800,000 undocumented immigrant youth at the mercy of the United States' fascistic deportation machine.

Perhaps no matter currently pending before the US Supreme Court carries more political significance than the DACA cases. What is at stake?

For the DACA beneficiaries, or "Dreamers," the freedom to live, work, study and raise a family without persecution or deportation hangs by a thread. Then there is the fate of the dreamers' own children, some quarter of a million people born in the US—and therefore citizens—who will lose one or both parents to deportation—essentially rendered orphans by the federal government. One only has to recall the brutal immigration raids in Mississippi—tearing working-class families apart—carried out in August to understand the dire consequences facing the Dreamers and their families.

For the American ruling class, immigration poses the question: by what means can American-born workers and foreign-born workers best be pitted against one another? Put another way, *to what degree* should immigrant workers be considered less than others in the US?

The bourgeois faction which views immigration and a semi-legal status for immigrants as an important source of labor for American capitalism includes CEOs of huge companies like Apple and Microsoft, substantial sections of the military/intelligence apparatus, certain trade unions, the Democratic Party and privileged layers of the upper middle class. These layers—the haves and the have mores—consider racial diversity a key component of maintaining the capitalist system.

The faction of the financial elite represented by the Trump administration follows the playbook of fascism, openly scapegoating immigrants for the social crisis faced by all sections of the working class and much of the middle class.

Xenophobia has been a cornerstone of President Trump's administration and his 2020 reelection campaign. To that effect, Trump slandered DACA recipients Tuesday in a 4 a.m. tweet, calling some "very tough, hardened criminals."

This statement echoes Trump's demagogic refrain during the 2016 election that immigrants crossing the US border with Mexico were gang members, drug dealers, murderers and rapists.

As for Trump's claim that he will reach a deal with the Democrats to allow the Dreamers to stay, truly, cynicism has hardly known such depths. Aside from contradicting himself—why should he want them to stay if they are hardened criminals!?!—the reality television star currently imprisons thousands of immigrant children separately from their parents. His hope is that DACA recipients will become a liability for the Democrats in negotiations for immigration reform, pushing the entire "debate" even further to the right.

While President Barack Obama enacted the DACA program in 2012, his administration was no friend to undocumented immigrants, deporting more than any previous administration.

DACA consisted of administrative changes in the Department of Homeland Security (DHS), the federal agency in charge of enforcing immigration law. Through the program, young undocumented immigrants—their average age at the time of entering the country is three years old—could register with the federal government in exchange for a semi-legal status allowing them to work, go to school and obtain drivers licenses and enjoy other social benefits. Those with DACA status have to reapply every two years while federal authorities closely monitor them for any criminal convictions.

Trump decided to end DACA in 2017 with his then DHS secretary Elaine Duke justifying the decision on the specious grounds that the program was unconstitutional and therefore she had no authority to maintain it.

At issue in the DACA cases argued Tuesday is whether Duke paid sufficient, if any, consideration to what are known as "reliance interests." Briefly stated, reliance

interests arise when a person or entity takes a course of action in the belief that a certain state of affairs—in this case, immigration law—would remain unchanged over a period of time. A sudden overturning of that state of affairs is said to be disruptive of their reliance interests. This could include life choices about education or having children, or business decisions about employment or investment.

Several of the justices outside the right-wing bloc—referring to Ginsburg, Kagan, Breyer and Sotomayor as “liberal” tortures language—opposed the Trump administration’s reversal of DACA not because of its racist motivations, but because Duke failed to consider the reliance interests of the Dreamers, as well as those of large employers such as tech-giant Microsoft and the US military. In sum, the potential for economic disruption should have given Secretary Duke pause; she should have explained her decision more thoroughly or, “taken ownership” of the administration’s decision.

Justice Sonya Sotomayor took up the issue in Tuesday’s oral arguments, asking Trump’s Solicitor General, “where—where is all of this really considered and weighed? And where is the political decision made clearly? That this is not about the law; this is about our choice to destroy lives.”

Justice Ruth Bader Ginsburg legitimized the entire antidemocratic framework of immigration law, defending DACA as a wise law enforcement policy, akin to prosecutorial discretion. She asked the Solicitor General, “but don’t you have to—don’t you have to set up some kind of categories? I mean, everybody agrees, what is that, how many, 11 million people—they [DHS] don’t have the resources, so you have to prioritize [deportations]. Everybody agrees you have to prioritize.”

Justice Stephen Breyer raised doubts as to what a victory for the petitioners would even look like, given that the Trump administration could simply issue another, lengthier justification for ending DACA. Right-wing Justices Neil Gorsuch and Samuel Alito sounded the same note.

One of the attorneys defending DACA, the solicitor general for the state of California essentially confirmed what these justices speculated.

He said of the possibility of winning the DACA cases, “I think the great value of a remand [a victory for DACA supporters] is that to date, they [the Trump administration] have not made a decision that actually takes ownership of a discretionary choice to end this policy. And if they had a remand, if that is their intent, they could issue a new decision that actually does that so the public could hold them accountable for the choice they’ve made.”

The oral arguments in the DACA cases highlight the advanced decay of the American ruling class and its institutions, including the US Supreme Court.

In a sense, no matter who “wins” the case, undocumented immigrants will certainly lose. The Trump administration has already received the Supreme Court’s pre-approval in oral arguments to terminate DACA on new grounds, so long as they are well considered, backed by some explanation. “Immigrants under DACA are a risk to American culture” or “they take American jobs” or even “they are replacing white Americans” would all pass muster before the right-wing majority and, one can’t forget, Justice Stephen Breyer.

Socialists reject the entire reactionary framework of the present “immigration debate,” from the fascistic machinations of Trump, Stephen Miller and company to the half-hearted pleas from what passes for the left that the White House “take ownership” of its racist agenda.

Workers have the right to live, work, vote, and more in any country they chose. This right is doubly important in the case of those fleeing US backed dictatorships throughout Latin America, as so many undocumented immigrants are. This right does not stand apart from the other democratic and social rights of the working class; rather, it forms a central strategic piece of a working-class counteroffensive against global capital, which operates without respects to national boundaries.

The Dreamers’ tenuous legal status, with their democratic and social rights hinging on presidential fiat, undermines the social position of the entire working class. Outside of the political fight to mobilize the working class on an international socialist basis, any struggle for defending democratic rights devolves into farce.



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