US Supreme Court blocks green cards for refugees with temporary status

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On Monday, a unanimous Supreme Court ruled in *Sanchez v. Mayorkas* that immigrants who are living in the US for humanitarian reasons cannot apply to become permanent residents. Justice Elena Kagan wrote that the federal law prohibits those who entered the United States illegally and now have Temporary Protected Status (TPS) from seeking green cards to stay permanently.

There are currently 400,000 people in the US who have been granted TPS because of war or disaster in their home countries. The program involves more than 12 countries and allows TPS holders to work legally and apply for permanent citizenship.

The Supreme Court argued that although refugees were granted TPS they were never formally "admitted" into the country. Kagan wrote, "The TPS program gives foreign nationals nonimmigrant status, but it does not admit them. So the conferral of TPS does not make an unlawful entrant… eligible," for a green card.

Kagan noted that only Congress can grant citizenship and noted that the House of Representatives has passed legislation that would allow TPS holders to apply for green cards. The bill, however, faces slim chances of passing the Senate.

President Joe Biden expressed his support for changing the law but noted, like the Trump Administration, that he did not support allowing immigrants who entered the country illegally to apply for permanent resident status.

In recent years, federal courts around the country issued conflicting rules regarding TPS holders and their right to apply for citizenship. The Trump Administration had threatened to cancel the program, sending fears among immigrants that they could be deported back to countries that they had not lived in for years, despite living and working in the US, and in some cases giving birth to children who have American citizenship.

Justice Kagan ruled that "Lawful status and admission, as the court below recognized, are distinct concepts in immigration law: Establishing one does not necessarily establish the other." She continued, "And because a grant of TPS does not come with a ticket of admission, it does not eliminate the disqualifying effect of an unlawful entry."

The ruling closes a window for plaintiffs Jose Santos Sanchez and his wife, both residents of New Jersey and TPS holders originally from El Salvador, to apply for a green card from his employer, a yacht company that sponsored him for a job-based green card over a decade ago.

The couple came to the US illegally in 1997 and 1998 and now have four children, with the youngest born in America and therefore a citizen.

After a series of earthquakes in El Salvador in 2001, they were granted TPS, which shielded them from deportation. In 2014, the couple wanted to "adjust" their status to become lawful permanent residents and get green cards.

The US Citizenship and Immigration Services denied their application, stating that they were ineligible because they entered the country illegally and were never formally admitted into the US.

Kagan argued that even though Sanchez was given TPS status, his unlawful entry into the US means that "He therefore cannot become a permanent resident of this country."

Michael R. Huston, assistant to the US solicitor general, arguing for the Biden Administration and against the couple, noted that it had been "reasonably determined" by Congress that TPS was not "a special pathway to permanent residence for non-citizens who

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are already barred from that privilege because of pre-TPS conduct." He added that TPS holders should know that the program is a temporary form of relief from deportation and "will not last forever."

One of Santos Sanchez's lawyers, Jaime Winthysen Aparisis, told Reuters he was "highly disappointed the Court decided against the rights of immigrants who otherwise played by the rules like Mr. and Mrs. Sanchez." He added, "TPS recipients like them have been living and working lawfully here for twenty years."

The case revealed that some circuit courts would grant immigrants green cards, while others would not, even in cases with identical circumstances.

The 6th, 8th, and 9th circuits of the US Court of Appeals ruled that granting a TPS status counted as a legal admission to the country, allowing immigrants to apply for a green card with a family member or employer sponsor and not have to leave the country. This allowed TPS holders with American spouses to avoid having to stay abroad and reenter the country to become permanent residents, something that is not only expensive for most, but also unsafe. The 3rd and 11th circuits ruled otherwise. Monday's ruling put an end to the split in rulings.

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