

Supreme Court orders Biden administration to revive Trump's Remain in Mexico immigration policy

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The US Supreme Court ordered the Biden administration this week to reinstate the previous Trump policy known as the Migration Protection Protocols (MPP) program, also known as the Remain in Mexico policy. The program had forced thousands of asylum seekers to stay in Mexico while their court cases played out in the US.

The vast majority of immigrants affected by this program were confined to squalid, makeshift camps along the US-Mexico border where they were prey to human smugglers and criminals, while their cases could drag on for months, if not years, in US courts.

The Remain in Mexico policy established in 2019 was one of many punitive measures by the Trump administration to deliberately discourage immigration to the US. It was suspended at the start of 2020, when Trump banned all migration into the US under Title 42, using the pandemic as a pretext to stop asylum seekers. This anti-immigrant program remains in effect under Biden.

The Supreme Court ruled 6–3 in rejecting the Biden administration's attempt to stop a Texas-based judge's ruling which ordered the government to revive the Remain in Mexico policy. Three of the six conservative judges were appointed by Trump while Republicans in Texas and Missouri had originally challenged Biden's rescinding of the order as they sought to reinstate some of the worst anti-immigrant policies of the previous administration.

In a statement, the Department of Homeland Security said it would "vigorously challenge" the district court ruling but would comply "in good faith" and has started discussions with Mexico.

The court's unsigned decision said the Biden

administration violated federal law in reversing the policy, citing last year's decision in *Department of Homeland Security v. Regents of University of California*, when Trump tried to undo former President Obama's Deferred Action for Childhood Arrivals (DACA) program which delayed deportation of young immigrants known as the "Dreamers" who entered the US illegally.

The court offered little explanation for its actions other than saying that the administration "failed to show a likelihood of success" on the claim that the memorandum rescinding the Migrant Protection Protocols was not "arbitrary and capricious." The so-called "liberal" dissenting judges, Stephen Breyer, Elena Kagan and Sonia Sotomayor, did not write an opinion on their views of the case.

After Biden reversed the Remain in Mexico program this year, the state of Texas filed a lawsuit claiming the program's suspension placed a burden on local governments to provide services for immigrants who were allowed to stay in the US. Texas Attorney General Ken Paxton tweeted his approval of the Supreme Court's decision, saying the policy "must be implemented now!"

A federal judge in Texas had previously ordered the administration to reinstate the Remain in Mexico policy. On August 19, the New Orleans-based 5th US Circuit Court of Appeals Judge Matthew Kacsmaryk, a Trump appointee, refused the White House's request to put the ruling on hold.

Tuesday's decision by the Supreme Court would mean that Kacsmaryk's order must go into effect, but Justice Samuel Alito ordered a brief delay to let the court have time to consider the administration's appeal.

The Supreme Court may return to the issue if the Biden administration files an appeal.

The Supreme Court's decision is another blow to the Biden administration's attempt to present itself as a departure from the hardline anti-immigrant policies of Trump. While the number of immigrants seeking asylum has climbed in the last year, the current administration has refused to allow anything other than the most token numbers to enter the US.

Detention camps, for adults and children, still operate at full capacity despite the surge in the COVID-19 pandemic and the White House is planning to jail more immigrants. Regardless of which of the two capitalist parties is in power, the war on immigrants continues.



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