

DACA AT THE SUPREME COURT

WHAT WE KNOW

LITIGATION TIMELINE

11/5/18: DEPARTMENT OF JUSTICE (DOJ) SEEKS SUPREME COURT REVIEW FOR DACA RESCISSION AGAIN.

11/8/18: NINTH CIRCUIT CONFIRMS LOWER COURT DECISION IN *REGENTS* AND RULES AGAINST THE GOVERNMENT.

6/28/19: AFTER PRIOR DENIALS, THE SUPREME COURT AGREES TO HEAR ARGUMENTS ON THE CONSOLIDATED DACA CASES.

11/12/19: ORAL SUPREME COURT WILL HEAR ORAL ARGUMENT FOR *REGENTS, BATALLA VIDAL, & NAACP*.

WHAT IS THE SUPREME COURT ASKING?

WHETHER DHS' DECISION TO END DACA

(1) CAN BE REVIEWED BY THE SUPREME COURT; AND

(2) IS LAWFUL.

THE "ARBITRARY AND CAPRICIOUS" STANDARD IS A TEST FOR THE COURT TO DECIDE IF THE AGENCY, DHS, USED REASONED DECISION MAKING FOR THE ACTION.

THE COURT IS EXPECTED TO ISSUE ITS DECISION BY JUNE 2020.

GOVERNMENT ARGUES

THE DACA RESCISSION DECISION IS NOT REVIEWABLE BECAUSE DHS HAD *DISCRETION* TO MAKE IT AND (2) THE RESCISSION IS LAWFUL.

AGENCY DISCRETION IS PROTECTED UNDER ADMINISTRATIVE LAW. IF AN AGENCY HAS DISCRETION FOR THE ACTION, A JUDGE CANNOT REVIEW THE ACTION UNDER THE "ARBITRARY AND CAPRICIOUS" STANDARD.

THE RESPONDENTS ARGUE

THE DACA RESCISSION IS REVIEWABLE BECAUSE

(1) THE EXCEPTION FOR DISCRETIONARY AGENCY ACTION DOES NOT APPLY; AND UPON REVIEW, (2) THE RESCISSION WAS UNLAWFUL BECAUSE IT WAS NOT MADE WITH REASONED DECISION MAKING.

KEEP IN MIND:

1. DACA: If you never had DACA, you cannot apply now for the first time. Current DACA recipients keep their deferred action status and work permits until they expire. If your DACA is expired, you may submit an application to renew it but the process changes depending on when it expired or will expire. Please contact an immigration attorney for advice. For more information, see our DACA Factsheet on the Oral Argument Preview: <https://pennstatelaw.psu.edu/circ>

2. FRAUD: Beware of individuals who present themselves as attorneys or who seek to take advantage of DACA recipients.

3. KNOW YOUR RIGHTS: Everyone residing in the United States has rights. https://pennstatelaw.psu.edu/Learn_and_Know_Your_Rights

4. OTHER OPTIONS: Those who have never had DACA as well as those who have had DACA may be eligible for other immigration relief. Seek legal counsel to discuss your options.

5. FILING FEE: DACA renewal application fees are \$495.00. If this fee poses a hardship, try using GoFundMe: <https://gofundme.com/cause/protect-daca>

The goal of this document is to provide general information regarding DACA and is not meant to act as a substitute to legal advice from an attorney.

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