

HOUSTON CHRONICLE

Supreme Court takes no action on Obama immigration reform

Lomi Kriel

January 15, 2016

With hundreds of thousands of immigrants waiting in anticipation, the Supreme Court made no decision Friday on considering an Obama administration plan to provide work permits to nearly 5 million immigrants here illegally and shield them from deportation.

It could now either announce Tuesday that it would not take the case or relist it for consideration during the justices' next conference session on Friday, said Karen Tumlin, legal director at the National Immigration Law Center, an advocacy group in Los Angeles.

"We just have to anxiously await," she said.

The court's decision would either sound the death knell for Obama's signature immigration initiative or revive it for a little longer until justices determine if it can continue.

The Justice Department in November asked the court to review a ruling by the 5th U.S. Circuit Court of Appeals that upheld a Texas federal judge's decision blocking the immigration initiative.

Obama outlined the plan in a televised address from the White House on Nov. 20, 2014. But Texas Gov. Greg Abbott, heading a coalition of 26 Republican-led states, sued almost immediately to stop the program, arguing in part that it would place an unfair burden on them by forcing states to issue hundreds of thousands of driver's licenses.

At issue is also whether Obama violated a little-known federal statute, the Administrative Procedure Act, in announcing the policy change without public input and if the executive branch can decide whether or not to enforce various aspects of immigration law.

Court watchers tend to think it's likely justices will agree to take the case because they declined in December to grant Texas a month-long extension to respond to the administration's appeal, granting it only eight days instead, which seems to indicate a hastiness to take it up.

But even if the court accepts the case, hears it in April and issues a decision allowing the program to go forward by June -- the best possible timeline for the administration -- it would still be extremely difficult to implement the initiative so soon before the presidential election in November. Hundreds of thousands of immigrants need to have their applications screened in a process the administration itself has said would take at least six months.

"They can't possibly ramp it up and get it going in the span of three months," said Josh Blackman, a constitutional law professor at South Texas College of Law who filed an amicus brief against the plan on behalf of the Cato Institute, a libertarian think tank in Washington, D.C. "Regardless of what justices do here, the election will decide the fate of the policy. If it's a Republican president, the policy will be repealed and if it's a Democrat, it will be continued."

A decision either way could have significant political consequences so soon before the election. And if the Supreme Court ultimately decides not to take it up now, it's not only a major blow to Obama but could also make it even more challenging to reform the system in the immediate future.

Greisa Martinez, an advocacy director with United We Dream, a national organization of more than 200,000 young people here illegally, said the immigrant community will remember that it was Republicans who opposed a way for their relatives to work here legally.

"We're committed to fighting no matter what happens," she said.

Martinez, whose parents brought her here from Mexico when she was an infant, grew up in Dallas and attended Texas A&M University. She has two sisters who are American citizens and another sibling who like her obtained work permits through Obama's program for immigrant youth. Her mother is here illegally.

After living here for 18 years, her father, a Baptist minister, was deported in 2008 after police in Farmers Branch pulled him over for not making a complete stop and discovered he was here illegally. He now lives in Mexico.

"He was the main breadwinner of our home so I had to leave college so that I could take care of my younger sisters," said Martinez, who is now 26. "That's the pain and then there's the hope, of being able to go spend Christmas with my dad, of seeing my mom help her mom in Mexico. That dream is not going to go away, whatever the decision, and we'll keep fighting for it."