

WASHINGTON **Examiner**

Trump's 'public charge' immigration welfare rule was foolish to begin with

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The Supreme Court ignited a firestorm on Monday when it upheld a controversial Trump administration immigration policy. The critics have a point, but their ire is aimed in the wrong direction.

A slim majority of the justices ruled 5-4 to uphold the "public charge" rule, which gives immigration authorities the right to deny visas to would-be legal immigrants who they suspect might end up on welfare and deny continued legal status to immigrants who currently reside in the United States and make use of welfare programs. Critics have blasted the Supreme Court for this ruling — Rep. Alexandria Ocasio-Cortez called it "shameful" — but this blame is misplaced. The justices simply ruled on whether the law permits the policy (I'll leave that debate to the lawyers), and the court's decision to uphold it doesn't imply that the conservative justices actually support or endorse the policy in any way.

However, critics do have a point about the underlying foolishness of this "public charge" rule. It will only discourage legal immigration at a time when we ought to increase it, and its vagaries will result in arbitrary and capricious decision-making by immigration authorities.

First, here's what the rule actually does. According to *SCOTUSBlog*:

"The rule that the government will now be able to enforce interprets a provision of federal immigration law that bans noncitizens from receiving a green card if the government believes that they are likely to become a 'public charge' — that is, reliant on government assistance. In August 2019, the Department of Homeland Security defined 'public charge' to refer to noncitizens who receive a variety of government benefits, including cash, health care or housing, for more than 12 months over a three-year period. The rule also considers factors such as age, employment history and finances to determine whether a noncitizen might become a public charge in the future."

Of course, I certainly don't think we should allow swarms of immigrants to pour into the country and quickly hop onto the welfare rolls at the taxpayer's expense. But that's an argument for excluding immigrants from welfare, not this foolish rule, which doesn't actually change welfare eligibility requirements.

It also doesn't define how government agents are supposed to know who will or won't become a public charge, aka a welfare recipient. It gives immigration officials wide latitude in this judgment. Essentially, they will look at prospective immigrants (note that the rule exempts refugees and other humanitarian classes of immigrants) and just guess who might end up on welfare and deny them visas. Officials could even deny a prospective immigrant as a possible "public charge" even if the immigrant never before used any kind of welfare.

This is extremely arbitrary. It's nearly impossible to tell which immigrants will find work and which won't. Many immigrants come to this country as unskilled laborers without a penny in their pockets but end up building successful businesses, contributing more to the economy than they take from it, and having children who often go on to be highly skilled workers and entrepreneurs.

Plus, the rule defines "public charge" so loosely that, according to the libertarian-leaning Cato Institute, even a current U.S. resident immigrant who earns 200% of the poverty line and is 95% self-sufficient could be denied a green card. How does turning a productive, law-abiding immigrant into an illegal immigrant because they participated in one small government program make any sense at all?

It's hard to estimate the exact numbers, but a substantial decrease in legal immigration will result from implementing this rule. Some suspect it could result in hundreds of thousands fewer legal immigrants each year. In a time of more job openings than job seekers, record-low unemployment, and nine states with shrinking populations, *decreases* in legal immigration are the last thing we need.

Slashing legal immigration is not a win for the economy, not a win for public safety, and certainly not a win for prospective immigrants and their families. In fact, perhaps the only people who really win from this are border-smuggling coyotes, under-the-table employers, and others who profit from illegal immigration, which is always fueled by added barriers to legal entry.

If we want to reduce immigrant reliance on welfare, a goal to which I'm sympathetic, even though it's already true that 80% of immigrants do not receive welfare, we'd be better served by allowing only U.S. citizens to be eligible for various welfare programs. That's a much better route than denying people legal status altogether on the mere suspicion of possible future welfare use.