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Texas Case Still Threatens DACA Despite High Court Ruling

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Immigrants protected by Deferred Action for Childhood Arrivals did not breathe a sigh of relief when the U.S. Supreme Court rejected President Trump's bid to end the program. They merely caught their breath, as the ruling rekindled a lawsuit in which Texas is trying to kill DACA once and for all.

The ink had barely dried last Thursday on Chief Justice John Robert's 5-4 majority opinion, finding the Trump administration had arbitrarily decided to rescind DACA, when a federal judge in Houston asked Texas and seven other Republican-led states to brief their claims attacking the program.

For DACA recipient Melida Velasquez, 22, Texas has been a land of opportunity.

Going to high school in North Carolina, living with her mother and older siblings, she decided to move to Texas and stay with an aunt in the Houston area.

"I moved to Texas when I was 17 so I could go to college here. Because North Carolina does not offer any state aid. Everyone who is not a citizen has to pay out-of-state tuition to go to college, even for community college," she said in an interview.

Texas is one of a handful of states in which undocumented immigrants can qualify for in-state tuition rates and receive state financial aid.

Velasquez became the first member of her family to attend college when she enrolled at the University of Houston, where she majors in psychology and health science.

She works as a maintenance coordinator at an apartment complex and nursing home for senior citizens. On the side, she volunteers with United We Dream, an immigrant advocacy group, reaching people by phone and social media and urging them to fill out the 2020 census.

Velasquez said by age 13 she was filling out job applications for her mother, who does not speak English, and telling herself she needed to get a job so she could help support her family.

"I didn't have time to have friends. It wasn't play time for me. It was more like get your shit together," Velasquez said.

Established through an executive order by President Barack Obama in 2012, DACA gives undocumented immigrants protection from deportation and allows them to get federal work permits and driver's licenses for renewable two-year periods.

The no-nonsense, get-it-done ethic is common among DACA recipients, according to

Luz Garcini, an assistant professor and public health expert at the University of Health Science Center at San Antonio.

Garcini has taught numerous DACA students and interviewed them for mental health studies and in focus groups, she said.

“They have a strong desire to learn because they understand DACA gave them access to education, to work, to opportunity. They understand that is their platform to make a change. So they are very dedicated to any opportunity that comes their way. ... Many have been adults since they were kids,” Garcini said in a webinar Thursday about the future of DACA hosted by Rice University’s Baker Institute for Public Policy.

The 649,000 people in the program come from 150 different countries, but 80% are from Mexico. The states with the most DACA youths are California, New York, Florida, Illinois and Texas, home to almost 160,000.

Velasquez was 8 when she came to the U.S. from El Salvador with her then 17-year-old sister. Her mother had immigrated to the U.S. when she was 2, so she effectively met her for the first time when they reunited in North Carolina.

Despite the Trump administration’s and Texas officials’ efforts to end the program, public opinion polls year after year show broad support for Congress passing a law to give DACA recipients a way to become permanent residents.

After the Supreme Court blocked the Trump administration from rescinding the program, Trump tweeted, “Do you get the impression that the Supreme Court doesn’t like me?”

But Houston immigration attorney Charles Foster said in the webinar he believes it may have brought a collective sigh of relief from Republican lawmakers.

Foster said the ruling is a “road map ... if they want to rescind it they can, they just have to dot their i’s and cross their t’s.”

Foster also said the ruling helped Trump, already grappling with a surge in coronavirus cases and unrest over police brutality, avoid another major political problem ahead of the November election: the backlash that surely would have come had he raised the specter of deportation for DACA recipients.

“I have no doubt that he would have deported all of us,” Velasquez said. “Because that’s what he wants and that’s still on his agenda. He wants immigrants to be out of this country.”

Velasquez said due to the uncertainty of her immigration status, she has looked into applying for Canadian residency after she graduates from college.

Nina Perales, of the Mexican American Legal Defense and Educational Fund in San Antonio, is lead attorney for a group of DACA youth who have intervened in the Texas case in hopes of saving the program.

She said U.S. District Judge Andrew Hanen has asked for supplemental briefing on Texas’ motion for summary judgment seeking a declaration that Obama’s establishment of the program was an unconstitutional use of executive authority.

“The merits of the claims may be resolved at a trial, if the court agrees with our arguments that the summary judgment motion should be denied,” Perales said in an email.

David Bier, an immigration policy analyst at the Cato Institute, a Washington, D.C. think tank, said in a June 18 op-ed the Supreme Court ruling opened the door for those shut out when the Trump administration barred new applications.

“Its decision will also allow about 130,000 new applicants to apply to the program for the first time because it affirmed a lower court decision that prohibited the government from denying new applicants,” Bier wrote.

But when asked Thursday if it was accepting new application, U.S. Citizenship and Immigration Services said, “The Department of Homeland Security and the Department of Justice are reviewing the court decision. USCIS has no further comment at this time.”

Velasquez said the ruling brought a rush of emotions, joy and shock, because she was expecting a negative decision. Now she finds herself right back in the same position, waiting for a court to decide her future.

“It’s not a great spot to be in. Just imagine yourself having family and just being at the hands of the court. And it’s like ‘OK tomorrow we are going to have a decision on if our life just goes down the drain, or if they are going to deport us.’ Whatever. They decide what they are going to do with you,” she said.