

The Supreme Court - June 18, 2020

Today, the Supreme Court of the United States issued the following opinion:

Department of Homeland Security v. Regents of Univ. of Cal., No. 18-587; **Trump v. NAACP**, No. 18-588; **Wolf v. Vidal**, No. 18-589: In 2012, the Department of Homeland Security (“DHS”) announced the Deferred Action for Childhood Arrivals program (“DACA”). DACA has two features – it allows certain unauthorized aliens who entered the United States as a child to apply for a two-year forbearance of removal, and it also allows those individuals to be eligible for work authorization and various federal benefits. Two years later, DHS announced in a memorandum that it would expand DACA eligibility and was also creating a similar program for parents whose children were U.S. citizens or lawful permanent residents, called Deferred Action for Parents of Americans and Lawful Permanent Residents (“DAPA”). States brought suit, with the Fifth Circuit upholding a nationwide preliminary injunction barring the implementation of DAPA and DACA’s expansion, specifically reasoning that the programs were “manifestly contrary” to the Immigration and Nationality Act’s careful designations of who could qualify to receive benefits. Following the change in Presidential administrations, DHS first rescinded the DAPA memorandum, and months later, issued a memorandum concluding DACA should be terminated and set out a process for winding down the program. That decision was based on the Fifth Circuit’s ruling and the Attorney General’s conclusion that DACA shares the “same legal . . . defects that the courts recognized as to DAPA.” A number of groups brought challenge to DHS’s rescission announcement. Three district courts found for the plaintiffs. After the Ninth Circuit affirmed one of the cases, the Court granted review of that decision, as well as review of pending appeals in the Second and D.C. Circuits. Today, the Court first held that DHS’s decision is reviewable under the APA, and then held that DHS’s decision to rescind DACA was arbitrary and capricious. The Court concluded total rescission was arbitrary and capricious because the Fifth Circuit’s finding of unlawfulness was limited to the federal benefits associated with DAPA, and DHS offered no reason for terminating DACA’s forbearance policy, the lawfulness of which was unaddressed by the Fifth Circuit and the Attorney General’s letter. The Court also rejected the plaintiffs’ claim that the DACA rescission violated the Equal Protection

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clause, finding the allegation that ending the program was motivated by animus to be insufficiently pleaded. Chief Justice Roberts issued the Court's opinion that the suit was justiciable and that DHS's decision was arbitrary and capricious, joined by Justices Ginsburg, Breyer, Kagan, and Sotomayor. Justice Sotomayor dissented as to the Equal Protection claim. Justice Thomas, Justice Alito, Justice Gorsuch, and Justice Kavanaugh all concurred as to the Equal Protection clause's dismissal, but otherwise dissented.

The Court's decision is available [here](#).