

# THE WALL STREET JOURNAL.

## JUDGE SAYS STATES HAD RIGHT TO SUE OBAMA OVER IMMIGRATION

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February 17, 2015

Republican opponents of President Barack Obama's immigration actions attempting to block his policies in court gained needed legal traction for their fight from a Texas-based federal judge's opinion released late Monday.

U.S. District Judge Andrew Hanen's 123-page opinion found that officials from 26 states had the right to challenge the law – something the Justice Department disputed – and offered a scathing indictment of how the White House put its policies in place.

The ruling breathes life into the mostly Republican effort to block Mr. Obama's immigration actions announced last year, following a setback in December in which a similar case was thrown out of federal district court in Washington, D.C.

Judge Hanen, a 2002 George W. Bush appointee who sits in Brownsville, Texas, found the states had ample legal standing to sue the administration. For instance, Judge Hanen observed that illegal immigrants granted deferrals could be eligible for drivers' licenses, which cost more to issue than is collected in license fees.

His conclusion contrasts against one made in December by U.S. District Judge Beryl Howell, who dismissed a lawsuit against the policy filed by Joseph Arpaio, the Maricopa County, Ariz., sheriff known for his tough anti-immigrant stands. Judge Howell, a 2010 Obama appointee, found claims of increased law-enforcement costs were too attenuated to give Mr. Arpaio standing to pursue the suit.

Judge Hanen's opinion suggested sympathy with arguments the states made that the administration's policy ran contrary to federal immigration law. But he reserved a final ruling on those claims, deciding for now to temporarily halt the program on procedural grounds while a trial proceeds.

The crux of the problem was the way the White House enacted the deportation deferral policy. Judge Hanen said the Obama administration should have followed a law designed to promote public participation in the rule-making process, rather than invoking executive authority and putting the policy in place quickly. The law in question is the 1946 Administrative Procedure Act, which generally requires federal agencies to publish a proposed regulation, receive and review public comments on the proposal, and then adopt a final version.

Judge Hanen found the administration's program wasn't general enough to be exempt from the law. The policy was, "in effect, new law," he wrote, and gave "a certain-newly adopted class of 4.3 million illegal immigrants not only 'legal presence' in the United States, but also the right to work legally and the right to receive a myriad of governmental benefits to which they would not otherwise be entitled."

The Justice Department had argued the deferral program was a general policy statement that fell outside the Administrative Procedure Act's notice-and-comment process.

Judge Hanen also said the program undermined the Immigration and Naturalization Act, rather than supplemented it, as argued by the Obama administration.

His injunction bars the government from implementing the Deferred Action for Parents of Americans and Lawful Permanent Residents program before a court trial resolves claims by Texas and other states that the policy violates federal immigration law. The program would affect an estimated four million people who have been in the country since 2010, who aren't considered an enforcement priority, and have a son or daughter who was a U.S. citizen or permanent resident as of last year.

At the outset of his opinion, Judge Hanen sought to dispel any thought that his personal views on immigration policy played into his decision. But he said the program "establishes a pathway for noncompliance and completely abandons entire sections of this country's immigration law." The states "have standing because of the DHS's abdication of its statutory duties to enforce the immigration laws."

It isn't the first time Judge Hanen has voiced a critique of Obama administration immigration policies. His prior rulings have faulted the administration for its handling of a child smuggling case and its failure to deport an illegal immigrant who had been convicted of violent crimes.

The Obama administration, noting the December dismissal of the Arpaio lawsuit, said it would appeal.

"The Department of Justice, legal scholars, immigration experts and the district court in Washington, D.C., have determined that the president's actions are well within his legal authority. Top law-enforcement officials, along with state and local leaders across the country, have emphasized that these policies will also benefit the economy and help keep communities safe," a White House statement said.