

1 IN THE SUPREME COURT OF THE UNITED STATES

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3 UNITED STATES, ET AL., :

4 Petitioners : No. 15-674

5 v. :

6 TEXAS, ET AL., :

7 Respondents. :

8 - - - - - x

9 Washington, D.C.

10 Monday, April 18, 2016

11

12 The above-entitled matter came on for oral
13 argument before the Supreme Court of the United States
14 at 10:04 a.m.

15 APPEARANCES:

16 GEN. DONALD B. VERRILLI, JR., ESQ., Solicitor General,
17 Department of Justice, Washington, D.C.; on behalf of
18 Petitioners.

19 THOMAS A. SAENZ, ESQ., Los Angeles, Cal.; on behalf of
20 Intervenor-Respondents in support of Petitioners.

21 SCOTT A. KELLER, ESQ., Solicitor General of Texas,
22 Austin, Tex.; on behalf of Respondents.

23 ERIN E. MURPHY, ESQ., Washington, D.C.; for United
24 States House of Representatives, as amicus curiae,
25 supporting Respondents.

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1 P R O C E E D I N G S

2 (10:04 a.m.)

3 CHIEF JUSTICE ROBERTS: We'll hear argument
4 first this morning in Case No. 15-674, United States v.
5 Texas, et al.

6 General Verrilli.

7 ORAL ARGUMENT OF GENERAL DONALD B. VERRILLI, JR.

8 ON BEHALF OF THE PETITIONERS

9 GENERAL VERRILLI: Mr. Chief Justice, and
10 may it please the Court:

11 The Secretary of Homeland Security has
12 decided to defer removal of the class of aliens who are
13 parents of U.S. citizens and LPRs, have lived in the
14 country continuously since 2010, and not committed
15 crimes. That policy is lawful and Respondents concede
16 it is lawful. It is fully justified by the fundamental
17 reality that DHS has resources only to remove a fraction
18 of the unlawful aliens, the aliens presently -- present
19 unlawfully in the country now.

20 This class of aliens is the lowest priority.
21 And there is a pressing humanitarian concern in avoiding
22 the breakup of families that contain U.S. citizen
23 children.

24 The principal --

25 JUSTICE GINSBURG: Couldn't the government

1 simply, as was suggested in one of the briefs, have
2 given these children -- parents of citizens or LPRs,
3 given them identity cards that say "low priority," and
4 would there be any difference between that and what this
5 DAPA Guidance does?

6 GENERAL VERRILLI: That is -- that's a very
7 important point, Justice Ginsburg. That -- that is
8 precisely what deferred action is. Deferred action is a
9 decision that you were -- that you are a low priority
10 for removal, and it's an official notification to you of
11 that decision. And Respondents have conceded that we
12 have the lawful authority to do both things: To make
13 that judgment and to give an identification card.

14 CHIEF JUSTICE ROBERTS: General, maybe it
15 would make logical progression if you began with your
16 standing argument first.

17 GENERAL VERRILLI: Yes. And I think this
18 does lead right into the standing argument.

19 I think the principal bone of contention
20 between the -- the Respondents and the United States is
21 over whether the Secretary can also authorize these
22 people to work and accrue ancillary benefits, and
23 Respondents lack standing to challenge that for three
24 fundamental reasons.

25 First, there's -- the injury is not

1 redressable, because even if they achieve the -- even if
2 they achieve the injunction that they want, barring us
3 from providing work authorization ancillary benefits, we
4 can, for the reason Justice Ginsburg identified, still
5 provide them with deferred action. And under Texas law,
6 they still qualify for a license under deferred action,
7 so there's no redressability.

8 Second, they have not alleged a concrete
9 particularized injury because the costs that they claim
10 now to be an injury are actually the expected and
11 desired result of the policy that exists in current
12 Texas law --

13 CHIEF JUSTICE ROBERTS: Well, but if -- if
14 they change that policy to avoid the injury that they
15 allege, in other words, if they did not confer -- offer
16 driver's licenses to those who are lawfully present
17 because of your policy, avoided that injury, you would
18 sue them, wouldn't you?

19 GENERAL VERRILLI: I'm not sure at all that
20 we would sue them. It would depend on what they did.
21 But the fundamental --

22 CHIEF JUSTICE ROBERTS: No, no. What they
23 did -- I'm hypothesizing -- is that they offered
24 driver's license to everyone, but not those who were
25 here under your -- under DAPA, under your proposal.

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