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U.S. Attorneys General Continue Effort to Protect Caribbean & Dreamers From Deportation

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NEW YORK, CMC – New York Attorney General Letitia James says she is co-leading a coalition of 17 attorneys general across the United States in continuing the fight against the Trump administration’s efforts to threaten Caribbean and other “Dreamers” currently registered for the Deferred Action for Childhood Arrivals (DACA) program with deportation.

DACA is an Obama administration programme that protected about 700,000 young Caribbean and other immigrants, known as “Dreamers”, from deportation.

After the US Supreme Court ruled in June that the Trump administration’s attempts to cancel the DACA programme were unlawful, the program was supposed to resume.

But, instead of continuing to process new applications, James said the U.S. Department of Homeland Security (DHS) issued a new memorandum on July 28 by the acting secretary of Homeland Security, Chad Wolf, which directed DHS to make interim changes to the program — including declining to accept any new initial DACA applications — while Wolf considered whether to fully rescind DACA.

In two filings made on Friday against President Donald J. Trump, the DHS, Wolf, US Citizenship and Immigration Services, and US Immigration and Customs Enforcement, James co-leads the coalition — like she did in the original lawsuit — in amending the original complaint.

The coalition also asked the court to immediately vacate the Wolf memo in a motion for partial summary judgment on the ground that it is — like the initial Trump administration policy to rescind DACA — unlawful, and that it should never have been carried out.

“Despite the Supreme Court already ruling that President Trump’s attempts to unfairly punish ‘Dreamers’ was unlawful, he’s at it again — targeting innocent young people who are only trying to be law-abiding members of society,” James told the Caribbean Media Corporation (CMC).

“The inhumane injustice repeatedly perpetrated by the Trump administration ignores the fact that the United States is currently home to more than 643,000 ‘Dreamers’”, she added. “America is where these young people have gone to school, where they have worked, where they have paid taxes, where they have raised families, and where they have continued to be vital members of each of our communities.

“While the Trump administration continues its efforts to unlawfully target and use these young immigrants as political scapegoats for his reelection, we will continue to fight for them every step of the way,” James continued.

She noted that “Dreamers” are foreign-born young people who were brought to the United States at a young age and now identify themselves as Americans.

James said most have no memory of or connection with the country where they were born, and many don’t speak any language other than English.

Under immigration law before the DACA program, she said most of these young people had no way to gain legal residency in the United States, even though they had lived most their lives in the U.S.

Since 2012, James said more than 825,000 young people who were brought to the US at a young age, were promised that if they came out of the shadows, they could legally work, study, serve in the military and raise families in the United States without fear of arrest or deportation.

The New York Attorney General said the societal benefits of DACA are also “broad and deep.”

With legal work authorizations, she said “Dreamers” perform a wide variety of critical job functions, including as teachers, health care workers, and information technology specialists, among numerous other professions.

“Such work allows these DACA recipients to provide vital financial support to their families, and to enhance the economies of their local communities — contributing approximately US\$8.7 billion each year in federal, state and local taxes across the country, and billions more to the nation’s overall economy,” James said.

In New York state alone, she said DACA recipients contribute more than US\$238 million annually in state and local taxes, and more than US\$1.6 billion annually to the state's overall economy.

Additionally, James said many "Dreamers" are also fighting for their communities in the battle against the coronavirus disease 2019 (COVID-19) as essential workers.

"More than 9,200 'Dreamers' are serving their communities on the frontlines in health care, education and food-related jobs alone," she said.

After President Trump ordered his administration to change the policy in 2017 and break the promises made to these "Dreamers", James said a prolonged legal battle began in September 2017 that made its way through multiple courts before landing, in a combined case, at the US Supreme Court in November 2019.

In June, the Supreme Court ruled that the Trump administration's attempt to cancel the DACA program was "arbitrary" and "capricious", in violation of the Administrative Procedure Act.

Additionally, the US Court of Appeals for the Fourth Circuit also ruled against the Trump administration, finding the rescission of DACA unlawful.

Despite multiple courts' ruling against the Trump administration, James noted that the late July memo by Wolf specifically orders DHS to reject all new initial DACA applications, to change the renewal period for current beneficiaries from two years to one year and to reject all advance parole applications, absent exceptional circumstances.

James said the Wolf memo also purports to apply these changes retroactively to all applications submitted after June 18, 2020 — the date of the Supreme Court decision.

In the motion filed on Friday — in the US District Court for the Eastern District of New York — James and the coalition argue that these orders, especially the order to reject new applications, "fly in the face of both the Supreme Court and the Fourth Circuit's earlier orders that found DHS's efforts to rescind DACA as unlawful."

Further, the coalition argues that the court should hold the Wolf memo invalid and vacate the changes it effected to DACA for the same reasons the US Government Accountability Office (GAO) concluded earlier this month when it said "Wolf has never lawfully served in the role of acting secretary of Homeland Security because his assumption of that role violated two federal acts related to the succession of power."

The coalition says that Wolf assumed the acting secretary position pursuant to a November 2019 revision to DHS's succession order issued by then-Acting Secretary Kevin McAleenan.

"But McAleenan had no power to make that revision because he assumed the position unlawfully himself following then-Secretary Nielsen's April 2019 resignation," the coalition says in the motion.

"DHS's operative succession order at the time of Secretary Nielsen's resignation unambiguously provided that the director of the Cybersecurity and Infrastructure Security Agency, not the commissioner of US Customs and Border Protection (the position McAleenan was filling before he succeeded Nielsen), was to succeed the secretary in the event she resigned," it adds.

With the GAO's finding a few weeks ago, the coalition on Friday makes clear, in the motion, that Wolf did not have the authority to issue the June memo, "and continues to have none today — placing DHS's current policies in direct violation of both the Supreme Court and Fourth Circuit orders from June."

James and the coalition specifically argue that DHS's new memo related to DACA "once again violates the Administrative Procedure Act" and that "its issuance by Chad Wolf is a violation of both the Federal Vacancies Reform Act and the Homeland Security Act, since he has never lawfully served as acting secretary of Homeland Security."

The coalition seeks to have the July 28 memo vacated and for the DACA program to be restored to where it stood before the September 2017 rescission, as the Supreme Court ordered in June.

Joining James in co-leading in the continuing fight for "Dreamers" are Massachusetts Attorney General Maura Healey and Washington Attorney General Bob Ferguson.

The three are joined by the attorneys general of Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia.