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United States District Court, C.D. California.

INLAND EMPIRE IMMIGRANT YOUTH  
COLLECTIVE et al.

v.  
Kirstjen NIELSEN et al.

Case No. EDCV 17-2048 PSG (SHKx)  
|  
Filed 11/07/2019

#### Attorneys and Law Firms

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#### Proceedings (In Chambers): Order GRANTING Plaintiffs' motion to stay.

The Honorable Philip S. Gutierrez, United States District Judge

\*1 Before the Court is Plaintiffs<sup>1</sup> motion to stay proceedings. *See* Dkt. # 113 (“*Mot.*”). Defendants<sup>2</sup> (the “Government”) have opposed this motion, *see* Dkt. # 117 (“*Opp.*”), and Plaintiffs replied, *see* Dkt. # 118 (“*Reply*”). The Court finds the matter appropriate for decision without oral argument. *See* Fed. R. Civ. P. 78; L.R. 7-15. Having considered the moving papers, the Court

GRANTS the motion.

#### I. Background

This action is brought by a class of undocumented immigrants who allege that the Government unlawfully revoked their status under the Deferred Action for Childhood Arrivals program, otherwise known as DACA, without first giving them notice and an opportunity to challenge the revocation.

#### A. Factual Background

The Court extensively described the history of the DACA program and the factual background of the named Plaintiffs’ individual cases in its previous orders, and it does not repeat that discussion here. *See* Dkts. # 31 (“*Prelim. Inj. Order*”); # 62 (“*Class Inj. Order*”); # 79 (“*MTD Order*”). For purposes of this motion, it is enough to say that the DACA program grants certain immigrants without legal immigration status a temporary reprieve from the possibility of being removed from the country. *See Class Inj. Order* at 2. Three of the named plaintiffs in this case are individuals who had their DACA status revoked without notice after they were issued a Notice to Appear (“NTA”) in immigration court. *See id.* at 2 3. They contend that the practice of revoking DACA without providing “notice, a reasoned explanation, an opportunity to be heard prior to revocation, or a process for reinstatement when the revocation is in error” violates the DACA Standard Operating Procedures (“SOPs”), which “do[ ] not allow for termination without notice in the vast majority of cases,” as well as the Due Process Clause of the Fifth Amendment. *Id.* at 3. They also argue that the policy is fundamentally illogical because an NTA can be issued (leading to an automatic termination of DACA) simply because a person lacks lawful immigration status a condition that necessarily applies to every DACA recipient. *See id.*

#### B. Procedural History

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Plaintiffs Inland Empire Immigrant Youth Collective and Arreola originally filed their class action complaint on October 5, 2017, alleging that Defendants' DACA termination policy violated the Administrative Procedure Act ("APA") and the Fifth Amendment. *See* Dkt. # 1. The following month, on November 20, 2017, the Court granted Arreola's motion for a preliminary injunction, enjoining USCIS's decision to terminate his DACA. *See Prelim. Inj. Order* at 15 16.

Plaintiffs then moved to certify a class and for entry of a classwide preliminary injunction. *See Class Inj. Order*. On February 26, 2018, the Court granted the motion. After a stipulated modification, the Court certified a class of "[a]ll recipients of [DACA] who, after January 19, 2017, have had or will have their DACA grant and employment authorization terminated without notice or an opportunity to respond," with the exception of certain categories of DACA recipients detailed in the order. *See Modified Class Definition*, Dkt. # 74. The Court preliminarily enjoined Defendants from, among other things, terminating the DACA status of class members absent a fair procedure that complies with the DHS SOPs and terminating DACA status "based solely on the issuance of an [NTA] that charges the DACA recipient as removable due to his or her presence in the United States without admission or having overstayed a visa." *See Class Inj. Order* at 35. Defendants then filed a motion to dismiss for lack of subject matter jurisdiction and for failure to state a claim, which the Court denied. *See MTD Order*.

\*2 After this Court denied Defendants' motion to dismiss, Defendants appealed to the Ninth Circuit. *See Notice of Appeal*, Dkt. # 80.<sup>3</sup> The Ninth Circuit heard oral argument on June 13, 2019. *See Mot.* 2:5 6. Shortly thereafter, the Supreme Court granted certiorari in *Regents of the University of California v. DHS*, 908 F.3d 476 (9th Cir. 2018), *cert. granted* 139 S.Ct. 2779 (June 28, 2019), another case challenging DHS's wind-down of the DACA policy. *See id.* 2:7 13. After the Court granted certiorari, the Ninth Circuit withdrew submission of the appeal in this case and stayed all further proceedings pending the outcome in *Regents*. *See Inland Empire Immigrant Youth Collective v. Nielsen*, No. 18-55564, Dkt. # 53 (9th Cir. June 28, 2019). Based on the Ninth Circuit's decision to stay and the pending appeal in *Regents*, Plaintiffs now move for a stay in this Court. *See generally Mot.*

## II. Legal Standard

The Court's authority to stay a proceeding is "incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). Among the competing interests to be weighed when considering a stay are "the possible damage which may result from the granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay." *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). "The proponent of a stay bears the burden of establishing its need." *Clinton v. Jones*, 520 U.S. 681, 708 (1997).

## III. Discussion

Plaintiffs argue that a stay is appropriate to preserve judicial efficiency. *See Mot.* 3:9 16. Specifically, the Ninth Circuit decision on the preliminary injunction appeal will conserve judicial resources because it will have a direct bearing on the next stage of this case, summary judgment. *See id.* Plaintiffs also argue that Defendants are unlikely to suffer harm due to a stay because the preliminary injunction has lasted fifteen months, and Defendants fail to identify any irreparable harm they've suffered as a result. *See id.* 4:1 4. Defendants counter that Plaintiffs do not meet their burden to show that a stay is warranted because they fail to identify any hardship they would suffer from continuing the litigation. *See Opp.* 2:6 8. Further, the injunction "operationally constrain[s]" Defendants, and Plaintiffs inappropriately propose an effectively indefinite stay. *See id.* 3:1 4:2.

The Court believes that a stay will advance "the orderly course of justice." *See CMAX*, 300 F.2d at 268. The Ninth Circuit stayed its review of the preliminary injunction in this case pending the outcome in *Regents*, which deals with issues that are substantially similar to those presented in this case. *See Mot.* 2:14 21; *Regents*, 908 F.3d at 486. Without guidance from the Ninth Circuit in this case or the Supreme Court in *Regents* on key legal questions about the reviewability and legality of DACA, the Court cannot properly decide those questions now. *See Rivera v. UHS of Delaware, Inc.*, No. EDCV

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15-00863 JGB DTBX, 2018 WL 6332278, at \*4 (C.D. Cal. July 13, 2018) (“Absent a stay, the Court may waste significant resources to ultimately conclude Plaintiff lacks standing to bring her PAGA claim.”). Ultimately, because the Ninth Circuit decision is likely to “narrow[ ] the factual and legal issues” in the case, the Court finds a stay proper. *See Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1112 (9th Cir. 2005); *see also Yohn v. California Teachers Ass’n*, No. SACV 17-202-JLS-DFM, 2017 WL 10439829, at \*3 (C.D. Cal. Nov. 13, 2017) (“Finally, the orderly course of justice would be promoted by staying the litigation. Although the Supreme Court’s ruling in *Janus* may not resolve all of the claims in this lawsuit, it will undoubtedly provide the Court significant guidance in deciding the merits and will therefore ‘simplify[ ] ... issues, proof, and questions of law.’ ”) (quoting *CMAX*, 300 F.2d at 268).

\*3 Moreover, Defendants have not shown that a stay would cause them damage. Their bare recitation that the injunction has “operationally constrained” them, without more, is not enough to demonstrate harm. *See Opp.* 3:1 3. While Defendants are correct that Plaintiffs must explain the need for a stay, courts must also weigh how a stay would damage the nonmoving party. *See id.* 2:6 8; *CMAX*, 300 F.2d at 268. Because Defendants have not attempted to show how they would be harmed, this factor also weighs in favor of a stay. *See Alter v. Walt Disney Co.*, No. CV 16-06644 SJO (EX), 2016 WL 9455627, at \*2 (C.D. Cal. Oct. 31, 2016) (“In light of the above, the [c]ourt agrees with [the moving party] that [the non-moving party has] failed to demonstrate a fair possibility of prejudice.”) (internal quotation marks omitted).

Lastly, contrary to Defendants’ assertions, the Court is not approving an indefinite stay. *See Opp.* 3:18 4:2. By contrast to cases that Defendants cite like *Dependable Highway*, there is a definite timeline here. *See id.* 3:6 16; *Dependable Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066 (9th Cir. 2007). Unlike *Dependable Highway*, where the district court gave no timeline for when the stay would terminate, and the parallel foreign arbitration had made no progress for two years, this stay will terminate after the Ninth Circuit decides the appeal in this case, which will occur after the Supreme Court decides *Regents* by mid-next year. *See Dependable Highway*, 498 F.3d at 1066 67. Given that the stay will only last for a “reasonable time,” it is not effectively indefinite. *See id.* at 1067.

#### IV. Conclusion

Accordingly, the Court **GRANTS** Plaintiffs’ motion to stay pending the resolution of the Ninth Circuit appeal in this case.

**IT IS SO ORDERED.**

#### All Citations

Slip Copy, 2019 WL 8011739

#### Footnotes

- <sup>1</sup> The named plaintiffs in this class action are Jesus Alonso Arreola Robles, Ronan Carlos de Souza Moreira, Jose Eduardo Gil Robles, and the Inland Empire Immigrant Youth Collective.
- <sup>2</sup> The Defendants in this case are various Department of Homeland Security officials who are being sued in their official capacities.
- <sup>3</sup> In the interim, the Court also issued an order granting Plaintiffs’ request to complete the administrative record with predecisional documents. *See* Dkt. # 104 (“*AR Order*”). In their briefs, both parties report that they have satisfactorily resolved any outstanding issues related to the administrative record. *See Mot.* 3:26 28; *Opp.* 4:5 11.

