

Nos. 18-587, 18-588, and 18-589

---

---

**In the Supreme Court of the United States**

---

DEPARTMENT OF HOMELAND SECURITY, ET AL.,  
*Petitioners,*

v.

REGENTS OF THE UNIVERSITY OF CALIFORNIA, ET AL.,  
*Respondents.*

---

*ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT*

---

**BRIEF OF THE UNITED STATES  
CONFERENCE OF CATHOLIC BISHOPS  
AND OTHER CHRISTIAN ORGANIZATIONS  
IN SUPPORT OF RESPONDENTS**

---

CHRISTOPHER J. WRIGHT  
STEPHEN W. MILLER  
*Counsel of Record*  
HARRIS, WILTSHIRE &  
GRANNIS LLP  
1919 M Street NW, Fl. 8  
Washington, DC 20036  
(202) 730-1300  
smiller@hwglaw.com

October 4, 2019

*Counsel for Amici Curiae*

---

Additional Captions Listed on Inside Cover

---

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES,  
ET AL.,

*Petitioners,*

V.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF  
COLORED PEOPLE, ET AL.,

*Respondents.*

---

*ON WRIT OF CERTIORARI BEFORE JUDGMENT  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT*

---

KEVIN K. MCALEENAN, ACTING SECRETARY OF  
HOMELAND SECURITY, ET AL.,

*Petitioners,*

V.

MARTIN JONATHAN BATALLA VIDAL, ET AL.,

*Respondents.*

---

*ON WRIT OF CERTIORARI BEFORE JUDGMENT  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT*

---

**TABLE OF CONTENTS**

|  | <b>Page</b> |
|--|-------------|
| TABLE OF AUTHORITIES.....  | ii          |
| STATEMENT OF INTEREST.....   | 1           |
| SUMMARY OF ARGUMENT.....   | 4           |
| ARGUMENT.....  | 5           |
| I. The Decision to Rescind DACA is Arbitrary<br>and Capricious Because DHS Failed to<br>Consider the Severe Individual and Social<br>Harm of Family Separation.....  | 7           |
| II. Disturbing the Preliminary Injunction Before<br>the Completion of Litigation Would Inequitably<br>Cause Irreparable Harm to DACA Recipients<br>and Their Families and Harm the Public<br>Interest..... | 13          |
| CONCLUSION.....  | 17          |
| LIST OF <i>AMICI CURIAE</i> .....  | 1a          |

## TABLE OF AUTHORITIES

| Cases  | Page(s) |
|--|---------|
| <i>Amoco Production Co. v. Village of Gambell</i> ,<br>480 U.S. 531 (1987).....  | 13      |
| <i>Ashcroft v. American Civil Liberties Union</i> ,<br>542 U.S. 656 (2004).....  | 15      |
| <i>Department of Homeland Security v. Regents<br/>of the University of California</i> ,<br>139 S. Ct. 2779 (2019).....                     | 14      |
| <i>Encino Motorcars, LLC v. Navarro</i> ,<br>136 S. Ct. 2117 (2016).....   | 7, 9    |
| <i>FCC v. Fox Television Stations, Inc.</i> ,<br>556 U.S. 502 (2009).....  | 7–9, 14 |
| <i>National Cable &amp; Telecommunications Ass’n v.<br/>Brand X Internet Services</i> ,<br>545 U.S. 967 (2005).....                        | 7       |
| <i>Railroad Commission of Texas v. Pullman Co.</i> ,<br>312 U.S. 496 (1941).....   | 14      |
| <i>Regents of the University of California v. United<br/>States Department of Homeland Security</i> ,<br>908 F.3d 476 (9th Cir. 2018)..... | 14      |
| <i>Securities and Exchange Commission v. Chenery<br/>Corp.</i> , 332 U.S. 194 (1947).....  | 7       |

**TABLE OF AUTHORITIES—Continued**

|   |    |
|---|----|
| <i>Stanley v. Illinois</i> ,<br>405 U.S. 645 (1972) .....                             | 9  |
| <i>Upper Skagit Indian Tribe v. Lundgren</i> ,<br>138 S. Ct. 1649 (2018) .....        | 14 |
| <i>Weinberger v. Romero-Barcelo</i> ,<br>456 U.S. 305 (1982) .....                    | 14 |
| <i>Winter v. Natural Resources Defense Council, Inc.</i> ,<br>555 U.S. 7 (2008) ..... | 13 |
| <br><b>Statutes and Legislative Material</b>  |    |
| 5 U.S.C. §§ 551–559... ..   | 7  |
| 5 U.S.C. § 706 .....  | 7  |
| 29 U.S.C. § 2601 .....  | 9  |
| H.R. Rep. No. 101-723(I) (1990), <i>reprinted in</i><br>1990 U.S.C.C.A.N. 6710.....   | 10 |
| S. Rep. No. 89-748 (1965), <i>reprinted in</i><br>1965 U.S.C.C.A.N. 3328.....         | 10 |

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.