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Moving Forward After DACA: Student Stories and Town Hall

September 20, 2017

Introduction

On September 5, 2017 under the direction of President Donald Trump, the Department of Homeland Security (DHS) issued a memo rescinding the Deferred Action for Childhood Arrivals (DACA). Since that announcement, the legal status and safety of more than 800,000 young people who call America home has been thrown into a dehumanizing, politically-motivated limbo. Despite a partial injunction issued by the United States District Court for the Northern District of California, the program's continued existence remains reliant on Congressional action.¹

The memo that created DACA was issued by Janet Napolitano, the former Department of Homeland Security (DHS) under President Barack Obama, on June 15, 2012. Stating that it was necessary to revise the way DHS enforced “the Nation's immigration laws against certain young people who were brought to this country as children and know only this country as home,” the memo detailed new criteria for deportation of undocumented immigrants.² After its creation, anyone who qualified for DACA protections would be excluded from deportation and allowed to receive renewable work permits.

Trump's decision to rescind DACA runs contra to his desire for a “merit-based” immigration system, because the program is exclusionary and merit-based. In fact, among the immigrant and undocumented community and their allies, the limited scope of DACA is often cited when explaining the narrowness of immigration allowances for the undocumented. Before an individual receives the benefits of DACA, they have to meet five qualifying

1. https://www.washingtonpost.com/local/immigration/daca-injunction-what-a-federal-judges-ruling-means-for-dreamers/2018/01/10/ecb5d492-f60c-11e7-a9e3-ab18ce41436a_story.html?utm_term=.623b9f6dcd98.

2. Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children, 77 Fed. Reg. 9754 (issued June 15, 2012.) <https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.

criteria. They

- (1) came to the United States under the age of sixteen;
- (2) continuously lived in the United States for at least five years preceding the issuing of the DACA memorandum;
- (3) are currently in school, have graduated from high school, obtained a general education development certificate, or be an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- (4) have never been convicted of a felony, a significant misdemeanor, multiple misdemeanors, or otherwise pose a threat to national security or public safety; and
- (5) are not currently above the age of thirty.³

Despite its limited scope, DACA still allowed thousands of young people to come out of the shadows for the first time. There are countless stories and public celebrations of perseverance and achievement among Dreamers. There is overwhelming support for the program.⁴

A similar program, Deferred Action for the Parents of Americans (DAPA), was proposed by the Obama Administration to extend the protections to immigrant parents of U.S. citizens and Legal Permanent Residents, but it was preliminarily enjoined from going into effect by the 5th Circuit Court of Appeals.⁵ When the injunction was appealed to the United States Supreme Court, the absence of a deceased Justice Antonin Scalia and subsequent stonewalled nomination of Merrick Garland led to an evenly divided affirmance with no issued opinion.⁶ Had DAPA been allowed to proceed, millions of parents of children born in the United States (“U.S.”) would have gained a clear path to citizenship and thousands of mixed-status families could have trusted that they would be unified. However, after the Trump administration took office and subsequently revoked DAPA as a proposed program, the need for ongoing litigation over the program and injunction became moot.⁷

For now, the government must continue to renew DACA and work

3. *Id.*

4. Morning Consult/Politico. (2017). National Tracking Poll #170904. Retrieved from: https://morningconsult.com/wp-content/uploads/2017/09/170904_crosstabs_Politico_v4_AP-2.pdf.

5. *Texas v. U.S.*, 809 F. 3d. 134 (5th Cir. 2015).

6. *U.S. v. Texas*, 136 S. Ct. 227 (2016) (memo).

7. Aria Bendix, *Trump Rolls Back DAPA*, The Atlantic (Jun. 16, 2017), <https://www.theatlantic.com/news/archive/2017/06/trump-rolls-back-dapa-program/530571/>.

authorizations for immigrants who had DACA status at the time the Trump administration ended the program on September 5. But Trump has threatened that if DACA recipients travel abroad, their reentry to the U.S. could be denied. Trump also said the government did not have to accept new applicants.

During the last term of the Obama presidency, hundreds of thousands of people were able to avoid deportation while living their lives in relative peace until DACA was rescinded. Along with DACA, the Trump administration's executive orders curtailing refugee processing, banning travel to the U.S. from many predominantly Muslim nations, and the ramping up of immigration enforcement policies, leave many with a level of uncertainty that should never exist, but certainly not in a nation where the vast majority of families come from immigrants.

While the rescission of DACA was shocking, it was no surprise. The Trump administration built its foundation on rhetoric that blames the woes of the working class on immigration and foreign influence, fanning the flames of racism and cultural protectionism. Rescinding DACA follows directly from the xenophobic words of the president. In promulgating this policy, the Trump administration again shows at least reckless indifference, if not cavalier disdain, for the millions of lives impacted by its targeted policies.

But we are not indifferent. Instead of disdain, we have respect and love for all of the people who are trying to live in peace within and without our borders. Many members of our journal have family and friends who are directly affected by this action. These personal relationships intensify the moral issue at stake. We felt it was our duty to use our platform to amplify the voices of those who have felt the pressure intensify since the election. By giving a voice to and personalizing the people impacted by such policies, we hope that more people can see that this is not just some narrowly defined and distorted economic issue, but a moral issue, foundational to a sense of common humanity.

It is our hope that as consciousness is raised around this issue, Congress will act to pass legislation that protects those who are here through chance. While we appreciate the efforts of the previous administration to act to protect this vulnerable group, leaving their livelihood up to the whims of political manipulation and partisan execution of the laws is not enough. We urge Congress to pass legislation modeled on the 2001 DREAM act, which would validate and cement protections for immigrants who came here as minors.

The DACA recipients who raise their voices do so at their own peril. As their status is up in the air due to the aggressive policies of the Trump administration, coming out to tell their stories makes them vulnerable to apprehension by the authorities. It is with this in mind that La Raza and the

Hastings Race and Poverty Law Journal hosted “Moving Forward After DACA: Student Stories and Town Hall” on September 20, 2017, at UC Hastings.

The event was cosponsored by the Asian Pacific American Law Students Association (APALSA) and the Hastings Students for Immigrants Rights (HSIR). Hosted on campus, the panel featured student voices, Maria Blanco, Executive Director of the UC Immigrant Legal Services Center, Sergio Garcia, the first undocumented immigrant to be admitted to the CA State Bar, and the UC Hastings Administration.

The event began with 3L, Mayra Hernandez.

Hello everyone, my name is Mayra Hernandez. I am the Senior Articles Editor of *Hastings Race and Poverty Law Journal* and the moderator for today. Again, I wanted to thank you all for being here.

Before moving on, we would also like to acknowledge that today we’re focusing on DACA, but we recognize that the focus on Dreamers can be exclusionary, and we actively want to reject dichotomies of good/bad or deserving/undeserving immigrants.

In 2012, former President Obama announced his executive order: Deferred Action for Childhood Arrivals also known as DACA.

DACA provides protection against deportation to undocumented immigrants brought to the United States as children. Additionally, DACA allows beneficiaries to get a driver’s license, Social Security number, and the Employment Authorization Card which is valid for a period of two years with the opportunity to renew.

Recently, President Trump repealed DACA arguing that it is unconstitutional. DACA is now suspended for 6 months, and those recipients whose work permit is set to expire in March of 2018 have until October 5, 2017, to renew their application. Now, it is up to Congress to enact legislation to protect these beneficiaries.

There are approximately 800,000 immigrants who are enrolled in DACA and will become eligible for deportation by the end of these 6 months. These young people have started families, pursued careers and studied in schools and universities across the United States, and now face an uncertain future.

With that, we want to provide this platform for voices of those who are beneficiaries of and experts on DACA.

It is my honor to introduce our speakers for today. Can you tell us what your reaction was at the moment you learned about DACA? How that impacted your decisions to continue on to higher education? What impact it had in your family?

Victor Escobar

The first student speaker was a 2L at UC Hastings, Victor Escobar. With Mr. Escobar's permission, we were provided a narrative of his journey.

Victor Escobar emigrated from Peru at the age of 13. While inevitably confronting a dangerous crossing through Mexico, Escobar and other migrants walked the desert for nearly a day, facing near-freezing temperatures at night and on one instance, being robbed by thieves with semiautomatic rifles.

Alas, Escobar ended up in Redding, California. He attempted to acclimate to his new home by joining extracurricular activities and becoming an average student. He could not help but feel isolated, a feeling stemming largely from his undocumented status.

Still, Escobar worked as a gardener, a dishwasher, and a busser with hopes to save money and attend college. His hard work and persistence allowed him to eventually attend California State University, Chico, where he majored in political science and in legal studies.

Just four days prior to his college graduation, Escobar was pulled over for speeding. The events that followed would remain with Escobar for the rest of his life. Rather than providing the patrol officer his driver's license, Escobar stated, "I'm undocumented." He did not have a license. Thus, Escobar was arrested and spent a few days in the county jail before receiving a call from Immigration and Customs Enforcement.

While his classmates were picking up their diplomas, Escobar was locked away in Florence Correctional Center near Phoenix, Arizona. As he walked into the immigrant processing center, he could not ignore the putrid smell from the housing building which resembled a high school gymnasium. The building housed over a hundred detainees. Most of these detainees were charged for immigration offenses – which are civil, not criminal offenses – and were working folk.

In about a span of seven weeks, and with help from relatives, Escobar was released on a \$25,000 bond. His path towards a legal residency was unclear. With his case at a standstill, Escobar requested a voluntary departure to Peru. While on his flight to Peru, he received a call from Mohammad Abdollahi, an activist for undocumented immigrants. Abdollahi convinced

Escobar to stay in the U.S. and start a public campaign. With a small army of advocates, they planned to request the government to administratively close his case. If all went well, Escobar would qualify for a work permit. Nevertheless, the government placed Escobar's case on hold and did not authorize a work permit for him.

Two months later, President Obama's Deferred Action for Childhood Arrivals program (DACA), would grant Escobar – and many like him – a renewable two-year work permit and temporary protection from deportation. The work from countless pro-immigrant activists finally paid off, and DACA became a reality.

With opportunity finally on his side, Escobar began studying for the LSAT, doggedly chasing his dream of becoming an immigration attorney. He adds, “the U.S. is a sovereign country, and should decide who immigrates here. Nonetheless, you have 11 million people who are undocumented, seventy percent of whom have resided in the U.S. for over ten years and who are essential to the U.S. economy. They contribute, and a comprehensive path towards legal immigration status is imperative not only for them, but also for the American economy.”

UC Hastings admitted Escobar in 2014, but Escobar could not afford tuition without loans. Due to his undocumented status, he did not qualify for Federal Student Loans. Again, facing adversity, he became a court interpreter, and then a case manager at an immigration law firm – saving money to one day attend UC Hastings College of the Law. In 2016, he left the U.S. with a travel permit – if admitted back into the country, his ten-year bar for entering without inspection would be dismissed. By this point, Escobar was married to an American citizen. He was admitted and applied for legal permanent residency. Finally, in August 2016, Escobar received a green card and began attending UC Hastings. Today, he is a 2L at UC Hastings with the same vision he began with. He plans to specialize in immigration law and criminal defense. In the summer of 2018, he will intern at the San Francisco Public Defender's Office.

Sergio C. Garcia

Sergio C. Garcia was born in Mexico and was first brought to the United States when he was 17 months old, without inspection or documentation by immigration officials.⁸ His parents moved the family back

8. *California Supreme Court Admits Undocumented Immigrant to State Bar*, Supreme

to Mexico and then entered the United States again when he was 17 years old, again without inspection or documentation.⁹ On November 18, 1994, Garcia's father, who had obtained lawful permanent resident status, filed a visa petition on Garcia's behalf which was accepted by immigration officials in January of 1995.¹⁰ Under federal law, the visa petition would allow Garcia to adjust his undocumented status to that of a lawful permanent resident when an immigration visa number became available.¹¹ Since the number of immigration visas that may be issued each year is limited and based upon the country of origin, and given that the backlog of Mexican immigrants waiting for an immigrant visa was so large, it would be decades before Garcia would become a lawful permanent resident.

Garcia's parents who "toiled as farmworkers" consistently encouraged their children to go to school.¹² During his time in Mexico, Garcia loved school and excelled at academics. Witnessing the injustices in the Mexican justice system left him wanting to become a lawyer. When he returned to the United States, he graduated high school and was offered scholarships to several prestigious universities in 1996, but schools rescinded their offers after learning of his immigration status.¹³ Garcia, however, did not give up on his dream to pursue college. For twelve years, he worked full-time at a grocery store and attended community college, then transferred to California State University, Chico, where he completed a paralegal certificate program in 2005. That same year, Garcia enrolled in law school at Cal Northern School of Law and four years later, he graduated.

In 2009, Garcia passed the California Bar Examination. He likewise possessed the requisite good moral character to qualify for admission to the State Bar, and yet he was not admitted to the California State Bar.¹⁴ After a two-year wait, he was sworn in as a lawyer in a courthouse in Chico, where hundreds showed to support and celebrate his grand accomplishment. His celebration was short-lived, when two weeks later, his license was revoked

Court of California News Release (Jan. 2, 2014), http://www.courts.ca.gov/documents/SC14-Jan_02.pdf.

9. *Id.*

10. *Id.*

11. *Id.*

12. Paloma Esquivel, *Undocumented Chico man passed the bar, but can he practice law?*, L.A. TIMES (June 11, 2012), <http://articles.latimes.com/2012/jun/11/local/la-me-sergio-garcia-20120611>.

13. Norjmoo Battulga, *Three years after court showdown, Sergio C. Garcia's law practice thrives*, MET MEDIA THE STUDENT VOICE OF MSU DENVER (Mar. 31, 2017), <https://www.mymetmedia.com/news/three-years-law-practice-thrives/>.

14. *California Supreme Court Admits Undocumented Immigrant to State Bar*, Supreme Court of California News Release (Jan. 2, 2014), http://www.courts.ca.gov/documents/SC14-Jan_02.pdf.

due to his status as an undocumented immigrant.¹⁵ The Committee of Bar Examiners of the State Bar of California filed a petition to admit Garcia to the State Bar and grant him a license to practice law in California.¹⁶ It would take five years for the Supreme Court of California to decide Garcia's case. After Governor Brown signed a new provision into law, the Business and Professions Code section 6064, subdivision (b), the California Supreme Court was granted the authority to admit as an attorney at law an applicant who is not lawfully present in the United States but who has fulfilled the requirements for admission to practice law.¹⁷ On January 2, 2014, the California Supreme court entered a unanimous decision to admit Garcia into the California State Bar.¹⁸ Less than a month later, on February 1, 2014, Garcia was officially sworn in, becoming the first undocumented immigrant to be admitted to the State Bar of California since 2008, when applicants were first required to list citizenship status on bar applications.¹⁹

María Blanco

María Blanco is the Executive Director for the UC Immigrant Legal Services Center (UCIMM), operating out of the University of California, Davis. UCIMM is the first system to provide free immigration-related legal aid to undocumented UC students and their families across California.

Last year, Blanco revealed, UCIMM saw roughly 800 clients, all of whom were undocumented UC students. Those are 800 people within the UC system who all have similar stories to those recounted above. Blanco emphasized that the Center's goal is not only to serve students, but to provide legal assistance to students' family members as well: students themselves had taught the Center's staff to approach this work holistically, such that no one would be left behind. At the outset, it was thus imperative for UCIMM that parents and siblings were welcome. Behind each student is a greater unit –

15. Cindy Rodriguez, Jaqueline Hurtado, *Undocumented immigrant's bid for California law license heads to court*, CNN (Sept. 4, 2013), <http://www.cnn.com/2013/09/04/us/undocumented-lawyer-law-license/index.html>.

16. *California Supreme Court Admits Undocumented Immigrant to State Bar*, Supreme Court of California News Release (Jan. 2, 2014), http://www.courts.ca.gov/documents/SC14-Jan_02.pdf.

17. *Id.* at 2.

18. *Id.*

19. Jennifer Medina, *Allowed to Join the Bar, but Not to Take a Job*, N.Y. TIMES (Jan. 2, 2014), https://www.nytimes.com/2014/01/03/us/immigrant-in-us-illegally-may-practice-law-california-court-rules.html?_r=0; http://www.courts.ca.gov/documents/SC14-Jan_02.pdf.

often, family and extended family.

After the September 5, 2017, announcement by Attorney General Jeff Sessions, Blanco stated that UCIMM entered crisis mode. The deadlines that loomed over students, their families, and their legal help, at UCIMM or elsewhere, were at once arbitrary and quickly approaching. Many students did not even apply for DACA renewal because they simply did not have \$495 to spare, a problem that stubbornly persists.

Because of the perpetual uncertainty surrounding DACA and its protections, Blanco's fear is that we will lose generations of young people who will not attend college. When students cannot see any viable career possibilities stemming from their increasingly expensive studies, they will find little reason to attend graduate school. Every one of UCIMM's clients must and does work during school in order to pay for books and housing; that is what it takes to afford your education without FAFSA or other loans and federal grants. Even more so, without the ability to work, the cost of school becomes prohibitive. This is especially true at the graduate level, where Cal Grants do not extend.

But Blanco is tentatively hopeful about comprehensive immigration reform over time; having practiced immigration law for over 20 years, she has seen various immigration reform policy proposals come and go. At this moment in particular, stated Blanco, there seems to be a cultural awakening, one which may just provide an opening for Dream Act reform. She is less hopeful, however, for more comprehensive immigration reform in the near future.

And yet, Blanco emphasized the importance of staying to fight another day. If we do finally secure the protections under DACA, and if we can hold on to them, then we will have the ability to work towards longer-term reform. This step is by no means a complete solution, but we must not beat ourselves up if we can *only* secure DACA and nothing else. There still remains more opportunity to get involved and fight for necessary, longer-term immigration reform, and we must seize it.