

DACA BACKGROUND

In 2012, the Obama administration established a program known as Deferred Action for Childhood Arrivals (DACA), which allows undocumented young adults who came to the United States as children to apply for protection from deportation. Applicants who meet a variety of criteria – for example, who have graduated from high school or served in the military and do not have a serious criminal record – must pay a fee of nearly \$500 in total, submit (among other things) their fingerprints and home address and undergo a background check. In the past seven years, nearly 800,000 people have obtained protection from deportation under DACA, which permits them to work legally in this country and gives them access to other benefits like health insurance and driver’s licenses. In 2017, the Trump administration announced that it would end the DACA program. The Supreme Court heard oral argument in a challenge to that decision.

The justices are considering three consolidated cases – filed in California, the District of Columbia and New York. They agreed to tackle two questions: whether the government’s decision to end DACA is something that courts can review at all and, if so, whether the decision to end DACA is legal.

In its brief on the merits at the Supreme Court, the government maintains that its decision to end DACA is not reviewable. The lower courts, the government explains, ruled that the decision to end DACA should be set aside because it is “arbitrary and capricious” – that is, not the product of reasoned decision-making – under the Administrative Procedure Act. But, the government continues, a court can’t review an agency’s decision under the

“arbitrary and capricious” standard if the agency’s action is one that it has the discretion to take.

But the Respondents write, not only did the Trump administration wait seven months after coming into office before deciding to terminate the program, but the president himself had previously indicated that his administration would “allow the dreamers to stay.” By contrast, they warn that allowing the Trump administration to end the program would create “devastating, life-changing harm” for the “hundreds of thousands of young people” who have “already structured their lives around the program” and would face the “loss of employment and educational opportunities, and possible exile from the country in which they have lived since they were children.”