



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
SOLICITOR GENERAL'S OFFICE

DOMINIC E. DRAYE
SOLICITOR GENERAL
DIRECT PHONE NO. (602) 542-8255
DOMINIC.DRAYE@AZAG.GOV

January 22, 2018

Scott S. Harris
Clerk of Court
Supreme Court of the United States
One First Street NE
Washington, DC 20543

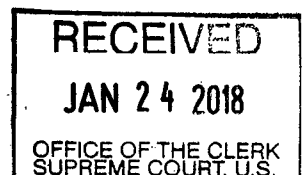
Re: *Brewer v. Arizona Dream Act Coalition*, No. 16-1180

Dear Mr. Harris,

Petitioners submit this letter to inform the Court of a recent development relevant to the above-referenced case. The petition in *Brewer v. Arizona Dream Act Coalition* presents the issue of whether the Deferred Action for Childhood Arrivals (DACA) program is valid “federal law” capable of preempting a state police power regulation. The petition remains pending in this case, awaiting the views of the Solicitor General, as invited by the Court on June 26, 2017.

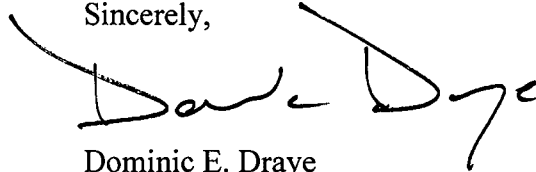
On January 9, 2018, the Northern District of California ordered the Department of Homeland Security (DHS) “to maintain the DACA program on a nationwide basis.” *Regents of University of California v. United States Department of Homeland Security*, C 17-05211 WHA, 2018 WL 339144, at *27 (N.D. Cal. Jan. 9, 2018). That court concluded that DHS’s decision to wind down DACA based on the program’s unconstitutionality “was based on a flawed legal premise” because DHS’s original decision to extend deferred action to DACA enrollees was within the scope of the agency’s “long and recognized practice.” *Id.* at 17–20.

On January 18, 2018, under a standard requiring “imperative public importance,” Sup. Ct. R. 11, the Solicitor General of the United States filed a petition for writ of certiorari before judgment challenging *Regents of University of California*. In its petition, the United States argued, among other things, that the conclusion of the Fifth Circuit in *Texas v. United States*, 809 F.3d 134 (5th Cir. 2015)—that DAPA and the expanded DACA policies were unlawful on both procedural and substantive grounds—“applies equally to the original DACA policy.” Pet. at 26, *Regents of Univ. of California v. U.S. Dep’t of Homeland Sec.* (filed Jan. 18, 2018).



The purpose of this letter is to identify the relationship between last week's petition and the instant case. While all parties continue to wait for the Solicitor General's response in this case, Arizona's statute remains enjoined on the assumption that DACA is federal law capable of preempting state law. If the Court grants the petition in *Regents of University of California*, it may wish to consider *Brewer* at the same time.

Sincerely,

A handwritten signature in black ink, appearing to read "Dominic E. Draye". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dominic E. Draye
Solicitor General of Arizona

DED/smp

cc: Jeffrey B. Wall, Principal Deputy Solicitor General of the United States
Jennifer Chang Newell, Counsel of Record for Respondents