

No. 17-1003

IN THE
Supreme Court of the United States

UNITED STATES DEPARTMENT OF HOMELAND SECURITY, et al.,

Petitioners,

v.

REGENTS OF THE UNIVERSITY OF CALIFORNIA, et al.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
BEFORE JUDGMENT TO THE UNITED STATES
COURT OF APPEALS FOR THE NINTH CIRCUIT

**Response Of Respondents Dulce Garcia, Miriam Gonzalez Avila,
Saul Jimenez Suarez, Viridiana Chabolla Mendoza, Norma Ramirez,
And Jirayut Latthivongskorn To Motion To Expedite**

The federal government has filed a petition for a writ of certiorari before judgment and sought expedited consideration of that petition. In our view, the petition lacks merit and should be denied, and the government’s failure to seek a stay plainly demonstrates the lack of urgency here. That said, because of the importance of the issues involved, respondents Dulce Garcia, Miriam Gonzalez Avila, Saul Jimenez Suarez, Viridiana Chabolla Mendoza, Norma Ramirez, and Jirayut Latthivongskorn (the “individual respondents”) agree to expedited consideration of the petition and suggest that responses to the petition be due on February 2, 2018.

1. Since 2012, the Deferred Action for Childhood Arrivals program (DACA) has enabled nearly 800,000 undocumented individuals who were brought to the United States as children to live and work without fear of deportation. This action challenges the Acting Secretary of Homeland Security's abrupt decision in September 2017 to terminate the program. On January 9, 2018, the district court entered a preliminary injunction ordering the government "to maintain the DACA program on a nationwide basis on the same terms and conditions as were in effect before the rescission on September 5, 2017," subject to three exceptions: (1) "new applications from applicants who have never before received deferred action need not be processed"; (2) the "advance parole feature" of DACA "need not be continued for the time being for anyone"; and (3) the government "may take administrative steps to make sure fair discretion is exercised on an individualized basis for each renewal application." Pet. App. 66a-67a. The court specified that "[n]othing in th[e] order prohibits the agency from proceeding to remove any individual, including any DACA enrollee, who it determines poses a risk to national security or public safety, or otherwise deserves, in its judgment, to be removed." *Id.* at 67a. The government filed a notice of appeal but did not seek expedited briefing. *Id.* at 71a-75a.

Rather than permit the court of appeals to consider the district court's order, last Thursday, the government filed a petition for a writ of certiorari before judgment in this Court. The next day, the government filed a motion to expedite consideration of that petition. That motion asks this Court to adopt a briefing schedule that would require all respondents to file their responses to the government's petition by January

31, 2018, less than two weeks after the petition was filed. Significantly, the government has not sought a stay of the district court’s ruling—not in the district court, or in the court of appeals, or in this Court.

2. We oppose the government’s petition for a writ of certiorari before judgment and will explain the reasons why in detail in our brief in opposition to certiorari. In brief, there is every reason to expect “that the Court of Appeals will proceed expeditiously to decide [the] case.” *United States v. Clinton*, 524 U.S. 912 (1998). And because the order permits the government to exercise “fair discretion” in deciding renewal applications, and to remove “any DACA enrollee” who it determines “deserves, in its judgment, to be removed,” Pet. App. 66a-67a, there is no urgent need for “immediate determination in this Court” that could justify the significant “deviation from normal appellate practice” that the government seeks. Sup. Ct. R. 11. That is especially true because the government has not sought a stay of the injunction and has not moved for expedited briefing in the court of appeals. Adherence to usual procedures for appellate review is especially warranted here, where Congress is now considering legislation that would obviate any need for this Court’s intervention.

That said, we recognize that this case raises important issues, especially for the individual respondents here, who have relied on the promise of DACA to further their education; start families; become lawyers, medical professionals, and teachers; and make many other life-changing decisions. *See, e.g.*, Compl. ¶¶ 37, 41, 48–98.

The individual respondents accordingly agree that this Court should adopt an expedited briefing schedule for the petition. We suggest that responses to the petition

be due on February 2, 2018, fifteen days after the petition was filed. That is half of the normal minimum time for responding to a petition for a writ of certiorari.

Respectfully submitted.

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January 22, 2018