National Immigrant Justice Center

SCOTUS Decisions and the Impact on Immigrants

A Briefing with NIJC Experts

immigrantjustice.org

July 17, 2026

Agenda

1. Introduction to NIJC
2. The Term that Was
3. What's to Come
4. Changes in Litigation Strategy
5. Ways to Get Involved

Today's Presenters

- Keren Zwick, Executive Director
- Mark Fleming, Acting Director of Litigation
- Chuck Roth, Director of Appellate Litigation
- Richard Caldarone, Senior Litigation Attorney

Our Mission

To establish and defend the legal rights of immigrants regardless of background and transform the immigration system to one that affords equal opportunity for all.

National Immigrant Justice Center

Our Model

Direct Legal Services

Legal information, comprehensive legal screenings, legal representation, and application filing for low-income immigrants

Impact Litigation

Litigation in the federal courts to challenge policies and practices that violate human rights

Policy Advocacy

Advocacy at national, state, and local levels and in partnership with coalitions for immigration policies that advance human rights

Strategic Communications

Public education through research, reports, presentations, and media

National Immigrant Justice Center

NIJC's Litigation Team

The Work We Do

- Direct Challenges to Removal Orders
- Habeas Petitions Seeking Release from Detention
- Class Actions and Systemic Litigation

Focus Areas For Systemic Case Work:

- Immigration Enforcement & Detention Conditions
- Access to a Fair Immigration Process
- Preserving Right to Seek Asylum

NIJC's Litigation Team in Action

The Term That Was

Birthright Citizenship

Trump v. Barbara, No. 25-365

- 5 votes (Barrett and Roberts) to keep traditional understanding of birthright citizenship
- We were forced to "play defense" but at least we avoided a massive loss
- Kavanaugh vote only on statutory grounds
- Some in Congress propose undocumented = "invaders" to get around decision – probably will not work

Temporary Protected Status

Mullin v. Doe, No. 25-1083

- Holds that 8 U.S.C. 1254a(b)(5)(A) bars all nonconstitutional challenges to TPS decisions
- Whitewashes comments by Trump & Noem
- Says that the widespread of all terminations of TPS makes Equal Protection claims about individual terminations unlikely to succeed
- Does not extend *Hawaii v. Trump*

Temporary Protected Status

Mullin v. Doe, No. 25-1083

- Effectively means that TPS will end immediately or very soon for Haiti, Syria, Venezuela, Burma, South Sudan, Afghanistan, Somalia, Cameroon, Honduras, Nepal, Yemen, and Nicaragua
- Would expect terminations for remaining countries—El Salvador, Ukraine, Sudan, Lebanon—this fall

Asylum Access at the Border

Mullin v. Al Otro Lado, No. 25-5

- 6-3 Decision
- Holds that noncitizens standing on Mexican soil have not "arrived in" the United States for purposes of seeking asylum
- Reverses Ninth Circuit decision and effectively allows the U.S. government to force people to wait in Mexico as a means of barring access to asylum

Technical issue for returning LPRs

Blanche v. Lau, No. 25-439

- Narrow issue: returning LPRs normally not applicants for admission, but if they committed certain crimes, different rules apply.
- Turns on burden and standard of proof
- Could possibly be weaponized but likely of minor importance even for immigration attorneys
- Why did SG want SupCt to rule on this issue?
  - Answer: they fight everything (and often win)

What's to Come

Cases on Next Term's Docket

- ***Wassily*:** Whether an asylee becomes ineligible for adjustment under 8 USC 1159(b) if their asylee status is terminated.
- ***Genalo v. Black*:** Whether Due Process requires a bond hearing when detention becomes prolonged; whether Due Process requires the Government to have the burden of proof.
- ***Montoya Palacios*:** Whether habeas petitions are "civil," allowing prevailing noncitizens to recover attorney fees.

Likely Grants for Next Term

Mandatory ICE Detention

- **What:** Since 2025, ICE rarely lets someone out of immigration detention without a court order
  - Result = Thousands of habeas petitions
- **How:** ICE reinterpreted statute – mandatory detention without bond for all undocumented folks (arrests or convictions are irrelevant)
- **Ultimate Question:** Does expedited removal statute apply to noncitizens (meaning mandatory detention), even if they've been here for many years?

D.V.D. v. DHS – Third Country Removals

- **What:** Challenges policy of removing people who have been granted mandatory protection from persecution and torture (i.e. withholding/ CAT) to third countries
- **History:**
  - District court granted preliminary relief in 2025, stayed by SCOTUS on shadow docket
  - District court granted vacatur in February 2026, stayed pending appeal
  - First Circuit oral argument was May 2026

RAICES / 212(f) - Border Closure

- **What:** Challenges Presidential Proclamation declaring an "invasion" at Border and suspending access to immigration remedies under the INA
- **Likely issue(s):**
  - Does authority of president to "suspend entry" into the United States allow him to deny people already here the right to seek protection?
  - Possible vehicle for several wider ranging issues relating to impact of vacatur of a policy or the scope of injunctive relief

Make the Road N.Y. v. Mullin - Expanded Expedited Removal

- **What:** Upholds expansion of expedited removal
  - Holds notice constitutionally adequate
  - Sweeps violations under the rug
- **Upsides:**
  - Says that the INA does not preclude APA relief, including stays
  - Has language that might help in challenging future expedited removal policies

Changes in Litigation Strategy

Continued Attacks on Standing

- Organizational standing under fire
  - "A legal-services organization cannot have Article III standing merely because a new law or regulation requires it to understand the legal change, to adjust resources in response, or to increase the degree or scope of legal representation for its current or prospective clients who may be adversely affected." *U.S. v. Texas*, 5th Cir. 2026 (en banc)
- En banc Ninth Circuit case pending

Limitations on Injunctive Relief

- Injunctions = Way courts order ICE to take specific actions or stop doing something illegal
- 8 U.S.C. §1252(f): Bars injunctions in class actions that relate to aspects of ICE arrests, detention, and removal proceedings
- *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022): Case that started chipping away at class injunctions against ICE enforcement

Continuing Limits on ICE Injunctions

- *Mullin v. Al Otro Lado*, Justice Thomas on class declaratory relief: "In a future case, this Court should address this apparent end-run around §1252(f)(1) and *Aleman Gonzalez*."

- *RAICES v. Mullin* (D.C. Cir.): Injunction blocking President's Proclamation closing the border is permissible because the statutory authority falls outside the immigration provisions covered by §1252(f)(1). Indirect effects on covered provisions is not enough for §1252(f)(1) to apply.

- *Nava v. DHS* (7th Cir.): Citing *Biden v. Texas*, 597 U.S. 785 (2022) finding §1252(f) not jurisdictional and thus waivable. But blocked injunction to stop ICE from using defective arrest warrants.

Get Involved

Get Involved

Stay Informed

- Register for NIJC's newsletter.
- Stay informed about immigration issues.

Advocate

- Protect good laws.
- Oppose harmful policies.
- Correct misinformation.

Invest

- Make a donation to NIJC.
- Introduce NIJC to your network.

Volunteer

- Represent an NIJC client.
- Volunteer to translate.

Connect with NIJC

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