

factor in the Republicans winning a huge majority in the House and a surging majority in the Senate.

So what was this all about? Well, Judge Hanen found that this was wrong. The President didn't have authority to take people Congress has said are here illegally and give them food stamps, health care, Medicaid, and work authorization. It went against the law. He couldn't do that. And he found that this was such an egregious action that it needed to be stopped now through an injunction before the trial even completed. So it was that injunction, that blocking of the President's amnesty, that went up on appeal to the Fifth Circuit, and they upheld Judge Hanen's decision.

First, 26 States—over half the States—participated in this litigation against the President's order, and they were found to have legal standing.

Then the court found this critical legal fact: They found that the States that were objecting to the President's order were likely to succeed in the final court ruling and on appeal. They found that it would likely succeed. And they noted this, referring to the Secretary of Homeland Security:

At its core, this case is about the Secretary's decision to change the immigration classification of millions of illegal aliens on a class-wide basis.

The Court went on to say:

DAPA would make 4.3 million otherwise removable aliens eligible for lawful presence, employment authorization, and associated benefits, and we must be guided to a degree by common sense as to the manner in which Congress is likely to delegate a policy decision of such economic and political magnitude to an administrative agency.

They basically were saying that they see no evidence that such a huge event would be delegated to the administrative bureaucrats at the Department of Homeland Security. Congress, in fact, I believe—and the court went on to say—explicitly laid out how we deal with this.

The Fifth Circuit rejected President Obama's claim that he could issue employment documents—the right to work in America—to persons illegally here in any way he sees fit. That is what the administration argued.

The court condemned that interpretation, saying:

The interpretation of those provisions that the Secretary advances would allow him to grant lawful presence and work authorization to any illegal alien in the United States—an untenable position in light of the Immigration and Nationality Act's intricate system of immigration classifications and employment eligibility. Even with "special deference" to the Secretary, the INA flatly does not permit the reclassification of millions of illegal aliens as lawfully present and thereby make them newly eligible for a host of federal and state benefits, including work authorization.

That is an absolute refutation of the President's position, as well it should be, because anybody who is familiar with that debate last year knew that it was bogus. The American people knew that argument was bogus, and the court affirmed it just last night with clarity and consistency.

They said: Well, historically, the Secretaries have done some of these things.

The court doubted that.

Quote:

Historical practice that is so far afield from the challenged program sheds no light on the Secretary's authority to implement DAPA. Indeed, as the district court recognized, the President explicitly stated that "it was the failure of Congress to enact such a program that prompted him . . . to 'change the law.'"

He asked for this. He asked for legislation to do this, and the House of Representatives said no. And he did it anyway. And the court of appeals slapped that down as being above the powers of the President of the United States, as indeed it is.

The court found that this DAPA Program is foreclosed by Congress's careful plan. Quote: "The program is 'manifestly contrary to statute' and therefore was properly enjoined."

The President of the United States has a duty to the law, a duty to enforce the law whether he likes it or not, and he has a duty to carry out the law. That is his oath. He is the Chief Executive. He is the person responsible for ensuring that the laws of the United States are carried out, and he breached his duty and took steps to absolutely eviscerate law passed by Congress. And

being unhappy that Congress refused to change it as he wished it to be changed, he just did it anyway. And that is wrong. The court has slapped him down, as they should.

I hope the American people understand that somewhere in this system there is a commitment to law and to propriety and to the right of Congress. Congress is going to have to continue to work on this. It should boldly assert its prerogative to pass laws and its prerogative not to fund Executive amnesties, or any other program we don't think is worthy of being funded.

Mr. President, I thank the Chair and yield the floor.

ADJOURNMENT UNTIL MONDAY,
NOVEMBER 16, 2015, AT 3 P.M.

The PRESIDING OFFICER. The Senate stands adjourned until 3 p.m. on Monday, November 16, under the provisions of H. Con. Res. 92.

Thereupon, the Senate, at 7:05 p.m., adjourned until Monday, November 16, 2015, at 3 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 10, 2015:

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING WITH JENNIFER ANN AMOS AND ENDING WITH HOLLY ROTHE WIELKOSZEWSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 8, 2015.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH KRESHNIK ALIKAJ AND ENDING WITH BRETT DAVID ZISKIE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2015.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH JASON DOUGLAS KALBFLEISCH AND ENDING WITH STUART MACKENZIE HATCHER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2015.

WITHDRAWAL

Executive Message transmitted by the President to the Senate on November 10, 2015 withdrawing from further Senate consideration the following nomination:

AIR FORCE NOMINATION OF BRIG. GEN. RANDALL R. BALL, TO BE MAJOR GENERAL, WHICH WAS SENT TO THE SENATE ON FEBRUARY 4, 2015.