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## Justices reject expedite DACA

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## Justices reject government's request to expedite DACA petition

*[Editor's Note: This post originally appeared, [with a different title](#), last week, but has been updated to reflect today's denial of the government's motion to expedite the consideration of the petition.]*

Late last year, [the federal government asked the Supreme Court](#) to wade into the dispute over the Trump administration's September 2017 decision to end the program known as "Deferred Action for Childhood Arrivals" (DACA), which allows undocumented immigrants who were brought to the United States as children to apply for protection from deportation. The government filed three petitions asking the justices to review decisions by lower courts that blocked the government from terminating the DACA program. In each petition, U.S. solicitor general Noel Francisco asked the Supreme Court to consider two related questions: whether the Trump administration's decision to end the DACA program is something that courts can review at all, or whether it is instead the kind of decision left to administrative agencies; and whether, even if courts can review the decision to end DACA, that decision violated federal laws governing administrative actions.

Francisco had urged the Supreme Court to take up the DACA cases quickly, so that they could be resolved during the current term, and the justices considered the petitions at two conferences in mid-January. But the justices did not act on the cases at that time; instead, they apparently put them on hold, without relisting them for a vote at any conferences since then.

On May 24 [the government filed a fourth DACA petition](#), presenting the same questions, that it hopes will finally spur the justices to act. This time, the government is asking the justices to review a ruling by the U.S. Court of Appeals for the 4th Circuit, which concluded earlier this month that the Trump administration's decision to end the DACA program was unlawful. Emphasizing that the 4th Circuit's decision is wrong, and arguing that the government is being required to keep in place a policy that both the Department of Homeland Security and Attorney General William Barr have concluded "is unlawful and that sanctions the ongoing violation of federal law by more than half a million people," the government asked the justices to grant the new petition, along with the three that are already pending, before the Supreme Court's summer recess, and hear the cases together when the new term begins next fall.

The government filed [a separate motion to expedite consideration of the petition](#). The government suggested that Casa de Maryland, the immigration advocacy group that is leading the challenge to the decision to end DACA in the Maryland case, and the other challengers should be required to file their response to the government's petition by June 4, which would allow the justices to consider the petition at their conference on June 20. Casa de Maryland opposed the government's motion, telling the justices that the government had not identified any circumstances "that would justify granting" its request "for an extraordinary departure from this Court's normal procedures." Instead, the group suggested, the government's motion to expedite was "little more than a vehicle to convey to the Court that" the government "considers the timing of" the grant of its DACA petitions to be "critical."



**Amy L. Howe**  
Until September 2016, Amy served as the editor and reporter for [SCOTUSblog](#), a blog devoted to coverage of the Supreme Court of the United States; she continues to

serve as an independent contractor and reporter for [SCOTUSblog](#). Before turning to full-time blogging, she served as counsel in over two dozen merits cases at the Supreme Court and argued two cases there. From 2004 until 2011, she co-taught Supreme Court litigation at Stanford Law School; from 2005 until 2013, she co-taught a similar class at Harvard Law School. She has also served as an adjunct professor at American University's Washington College of Law and Vanderbilt Law School. Amy is a graduate of the University of North Carolina at Chapel Hill and holds a master's degree in Arab Studies and a law degree from Georgetown University.

This afternoon the justices denied the motion to expedite the consideration of the government's most recent petition. The ruling means that Casa de Maryland's response to the petition will not be due until June 24 - too late for the justices to consider that petition before their summer recess.

*This post was also published on [SCOTUSblog](#).*

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#SCOTUS declines to block execution of Florida serial killer Bobby Joe Long, whose execution is scheduled for tonight. No recorded dissents from the orders denying Long's request for stays.

May 23, 2019



**Amy Howe**  
@AHoweBlogger

No, I think it's just about the timing of the briefs, presumably so that the parties with the same positions wind up filing their briefs at the same time (even if they are petitioners in some cases and respondents in others).

May 14, 2019



**Amy Howe**  
@AHoweBlogger

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