

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

THE STATE OF TEXAS AND

THE STATE OF MISSOURI,

PLAINTIFFS,

v.

JOSEPH R. BIDEN, JR. IN HIS OFFICIAL CAPACITY AS
PRESIDENT OF THE UNITED STATES OF AMERICA, *ET*
AL.,

DEFENDANTS.

CASE No. 2:21-cv-00067-Z

**JOINT BRIEF ON REINSTATEMENT OF
MIGRANT PROTECTION PROTOCOLS**

The parties submit this joint brief in response to the Court's order of January 22, 2025, requesting the parties to address the impact of Defendants' announcement of the reinstatement of the Migrant Protection Protocols (MPP) on this case. ECF No. 207. While Defendants' announcement does not yet moot this case, the parties respectfully request that the court hold this case in abeyance for 180 days while incoming leadership at the Department of Homeland Security (DHS) assesses this case and how to proceed.

This case currently concerns Plaintiffs' challenge under the Administrative Procedure Act (APA) to the October 29, 2021 memorandum terminating MPP by former DHS Secretary Alejandro Mayorkas (the Mayorkas memorandum) following remand from the U.S. Supreme Court, *Biden v. Texas*, 597 U.S. 785 (2022). The Mayorkas memorandum represented DHS's decision and action to terminate in 2021 MPP, which was implemented in 2018 through a memorandum by then DHS Secretary Kirsten Nielsen. *Id.* at 791. The implementation of the

Mayorkas memorandum is currently stayed by the Court pursuant to 5 U.S.C. § 705 pending its adjudication of this case. ECF No. 178. MPP could not be functionally operative for a period of time due to Mexico's lack of cooperation.

The parties have fully briefed summary judgment motions addressing Plaintiffs' APA claims against the Mayorkas memorandum, which are currently pending adjudication. ECF Nos. 203, 204, 205, 206.

As the Court notes, on January 21, 2025, DHS announced that it had reinstated MPP. U.S. DHS, "DHS Reinstates Migrant Protection Protocols, Allowing Officials to Return Applicants to Neighboring Countries," (Jan. 21, 2025), <https://www.dhs.gov/news/2025/01/21/dhs-reinstates-migrant-protection-protocols>. As DHS explained, "The situation at the border has changed and the facts on the ground are favorable to resuming implementation of the 2019 MPP Policy." *Id.*

Under these circumstances, the parties request that the Court take no further action at this time, including resolving the summary judgment motions, and place this matter in abeyance for 180 days to allow incoming leadership at DHS to assess this case and how to proceed. The parties will submit a status report updating the court 180 days from today. No party will be prejudiced by this abeyance because MPP has been reimplemented and will be operational during this period.

Accordingly, the parties request that this matter be held in abeyance for 180 days.

Date: January 31, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2025, I electronically filed this brief with the Clerk of the Court for the United States District Court for the Northern District of Texas by using the CM/ECF system. Counsel in the case are registered CM/ECF users and service will be accomplished by the CM/ECF system.

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