

# SCOTUS Reinstates Remain in Mexico: What This Means for Migrants

*Court rules President Biden improperly ended Trump-era program, keeping asylum seekers out of the country until their cases can be decided. by Nadia El-Yaouti*

QUEENS, NEW YORK, UNITED STATES, August 31, 2021 /EINPresswire.com/ -- Last week, the U.S. Supreme Court denied a request by the Biden administration to put a hold on a lower court's ruling that required the Biden administration to continue the controversial "Remain in Mexico" policy.

The High Court's ruling essentially requires the Biden administration to reinstate the Trump-Era policy formally known as the Migrant Protection Protocols or MPP. The policy, which is one of many Trump immigration policies that the Biden administration has worked to undo, requires migrants to stay in Mexican border towns as they awaited their cases to be heard by the U.S.

While the Biden administration is currently appealing the case, it has shared that it will act in "good faith" to reinstate the program.

The denial by the High Court came after the Biden administration asked the U.S. 5th Circuit Court of Appeals to put a hold on the ruling. Texas and Missouri had brought forward a suit that challenged the way in which the Biden administration ended the program.

The two states argued that the program was stopped in a manner that was "arbitrary and capricious." The appellate court agreed, citing that the Biden administration "failed to show a likelihood of success on the claim that the memorandum rescinding the Migrant Protection Protocols was not arbitrary and capricious."



Queens immigration attorney Scott Messinger



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The court's ruling did note, however, that the three liberal justices would have issued the stay. Also, as immigration attorney Scott Messenger of [Gladstein & Messenger, P.C.](#), points out, the Court did not set a strict timetable for the administration to restart the program. "The Court merely said the administration has to make a "good faith effort" to do so," says Messenger. In the meantime, Messenger believes the Biden administration could and probably will try to end the MPP in a way that would survive a legal

challenge.

### What Does This Ruling Mean for Migrants?

Amid the hotly contested issue of immigration since Trump left office, many migrant advocates are concerned about what this new ruling means for migrants seeking asylum in the states.

Since shortly after undoing the MPP in February, the current administration has admitted roughly 13,000 migrants seeking asylum who were initially sent back to Mexico because of the policy. This is just a sliver of the estimated 70,000 asylum seekers who were sent back to Mexico in the first year of the policy's implementation.

Many immigration advocates have criticized the MPP policy for being a misnomer as they argue the legislation does not actually protect migrants but instead puts them in harm's way.

These advocacy groups have argued that migrants who are sent to these Mexican border towns fall victim to extreme violence, kidnapping, and extortion schemes. At the heart of the concern is the poor infrastructure in place for the asylum seekers who wait in these border towns. Issues like staffing shortages, the inability to communicate with migrants about pending court dates, and the lack of or difficult access to counsel for migrants have all hindered the efforts of helping migrants the way the program was supposedly intended.

U.S.-based advocacy group Human Rights First has documented over 1,500 instances of violence against migrants waiting in these border towns per the guidelines of MPP. Other reports estimate that this number is much higher as many of the incidents go unreported. Since Biden has taken office, Human Rights First reports that roughly 6,300 instances of violence against migrants in Mexico have taken place.

Another question left up in the air is what will happen to migrants who had already crossed the border after Biden initially stopped the Remain in Mexico policy and who are now in the Immigration Court system. Will they need to go back to Mexico to wait out the remainder of their case? While it is unclear at this point how those asylum seekers will be handled, attorney

Messinger points out that the Biden administration has recently announced rules that could make the asylum process more efficient by allowing immigration asylum officers to review cases instead of having the cases automatically go to the overburdened Immigration Courts. "That could help alleviate some of the problem," Messinger says.

While the Supreme Court's ruling made clear that the program was illegally terminated, it did not entertain the legality of the program itself. Messinger confirms that the legality of the program itself has yet to be decided and that this issue is currently being reviewed in the federal court system. "The Supreme Court allowed the program to be reinstated while the program's legality is reviewed," he explains. Meanwhile, immigrant advocacy groups and the migrants themselves remain stuck in limbo but hopeful that the policy will soon be lawfully revised or terminated. Just as the migrants haven't given up on America, America hasn't given up on them either.

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