

## EDITORIAL: Activist judge gives GOP what it seeks on immigration



U.S. Southern District Judge Andrew S. Hanen, left, joins with Filemon B. Vela, Jr. and Blanca Vela for the Pledge of Allegiance during the United States Courthouse naming ceremony in Brownsville, Texas. Hanen temporarily blocked President Barack Obama's executive action on immigration Monday, Feb. 16, 2015, giving a coalition of 26 states time to pursue a lawsuit that aims to permanently stop the orders.

BRAD DOHERTY — ASSOCIATED PRESS

Political conservatives make a lot of hay about "activist" judges when it comes to rulings that counter their political beliefs, such as giving gay people the right to marry or maintaining the healthy separation of church and state.

But they don't seem to mind when that activism skews in their favor. That's what happened Monday when U.S. District Court Judge Andrew S. Hanen issued a temporary restraining order halting President Barack Obama's executive action to defer deportations of millions of undocumented immigrants whose children are U.S. citizens or lawful residents, if they qualify and pay back taxes. That program, along with the expansion of the 2012 program to defer action for people brought to the country as children, was set to begin Wednesday.

In fact, Hanen, of Brownsville, Texas, is the exemplar of an activist judge. He has been outspoken about immigration and critical of Obama's deportation policy. In his 123-page explanation of why he was granting a temporary injunction, he contorts logic to validate the spurious claims made by the 26 states, including Texas, suing to stop the president's use of executive order on immigration.

Hanen found the flimsiest of technicalities on which to hang this stay: That the states have a right to challenge

established federal authority with regard to immigration because there would be a cost to provide driver licenses to undocumented immigrants. In Texas, that equals approximately \$130 per immigrant, a minimal cost that would be offset by taxes those qualifying for the deferred action program would be required to pay.

Legal scholars and court watchers believe this injunction is a road bump for the president, who has agreed to stop implementation of the program but is appealing.

We, like many Californians, applauded Obama's action in November to take immigration matters into his own hands. It has been clear for a long time that Congress has no interest in fixing a broken system that exploits millions of people and provides a perfect boogeyman for any GOP candidate looking to score political points.

Of all states, California suffers the most from federal immigration inaction. There are an estimated 2.6 million undocumented immigrants in the state, many of whom work in the state's vital agriculture industry.

California Sen. Barbara Boxer and others have called upon congressional Republicans to come up with an immigration policy if they hate the president's so much. Unlikely. The only thing the base could agree upon is spending more money to "secure" the border and wholesale deportations. Even Congress, we hope, doesn't have the stomach to suggest spending billions to round up 11 million actual humans — is a good idea.

What Congress must do, however, is pass a bill to continue to fund the Department of Homeland Security (which was created by executive action of George W. Bush). The Republican-controlled Congress has stalled a funding bill as a way to protest the president's immigration action. In so doing, the House and Senate jeopardize all the important work that Homeland Security does to keep Americans safe.

Now that the GOP has judicial activism on its side, there's no reason to hold up DHS funding.