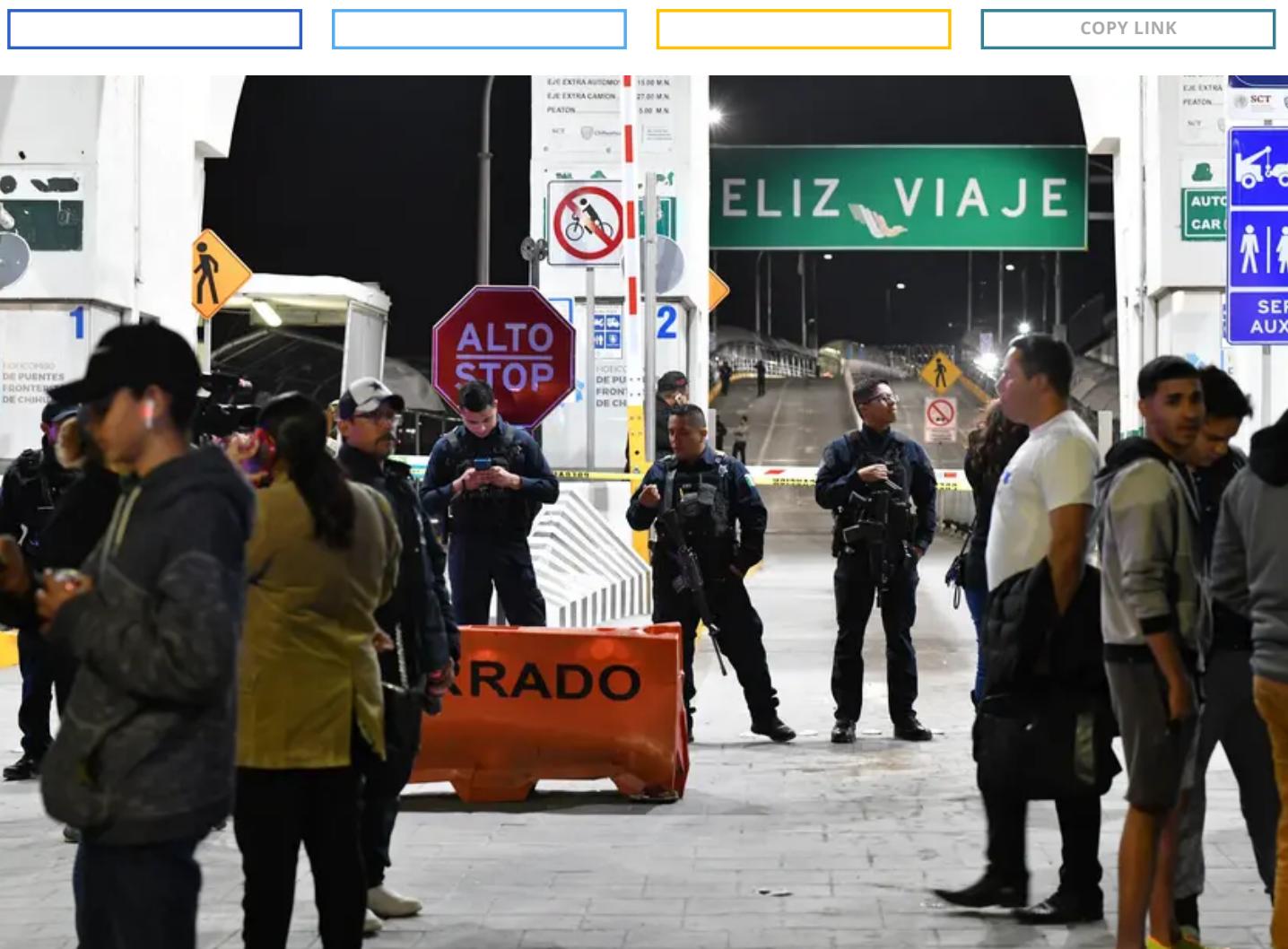


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Supreme Court rules Biden administration can end “remain in Mexico” policy, sending case back to a Texas court

The Trump administration created the Migrant Protection Protocols, also called “remain in Mexico,” in 2019 before the Biden administration canceled it in 2021. The ruling sends the case back to a Texas federal court.

BY [URIEL J. GARCÍA](#) JUNE 30, 2022 UPDATED: 6 PM CENTRAL



Asylum-seekers gathered at the Paso Del Norte International Bridge in Ciudad Juárez in February 2020. The group sought entry into the United States after learning that a federal court had blocked the Trump administration’s “remain in Mexico” policy. Jordyn Rozensky for The Texas Tribune

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The U.S. Supreme Court ruled Thursday that the Biden administration has the right to end a Trump-era immigration policy that forces asylum-seekers to wait in Mexico as their cases make their way through U.S. immigration courts.

In a 5-4 ruling, the justices ruled against Texas and Missouri, which had argued that the Biden administration violated the law by rescinding the program, and sent the case back to the district court to determine if terminating the policy violated any administrative laws.

But the justices determined that the government’s cancellation of the Migrant Protection Protocols, referred to as MPP and also called “remain in Mexico,” did not violate a section of immigration law that Texas and Missouri had used to argue that the Biden administration illegally ended the program.

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Chief Justice John Roberts and Justice Brett Kavanaugh joined the three more liberal justices in the majority.

It’s unclear if the Biden administration will try to end the program immediately or wait for the lower court to rule.

The Department of Homeland Security said in a statement Thursday evening that it welcomed the Supreme Court’s decision that it “has the discretionary authority to terminate the program, and we will continue our efforts to terminate the program as soon as legally permissible.” In the statement, DHS also said it will continue to punish immigrants who enter the country illegally and enforce Title 42, the emergency health order that immigration officials have used to quickly expel a majority of people attempting to enter the country.

In the statement, Alejandro Mayorkas, the DHS secretary, said “after a thorough review, the prior administration’s Migrant Protection Protocols (MPP) has endemic flaws, imposes unjustifiable human costs, and pulls resources and personnel away from other priority efforts to secure our border.”

César Cuauhtémoc García Hernández, an immigration attorney and law professor at Ohio State University, said that the Biden administration can immediately stop enforcing the program, but the Supreme Court’s ruling leaves the door open for Texas and other states to continue pressing to force the administration to continue the program.

Texas Attorney General Ken Paxton, who has sued the administration repeatedly over President Joe Biden’s immigration policies, said the ruling “makes the border crisis worse” but the battle isn’t over. “I’ll keep pressing forward and focus on securing the border and keeping our communities safe in the dozen other immigration suits I’m litigating in court,” Paxton said.

Immigrant rights advocates celebrated the court’s ruling Thursday.

“It is a bittersweet victory after so many lives have been lost to atrocious immigration deterrence policies both on the federal level and in the state of Texas,” said Fernando García, executive director of Border Network for Human Rights based in El Paso. “This decision was long overdue, and it is shocking that the Supreme Court waited until today to determine the danger that migrants have been subjected to since Trump enacted this deadly policy.”

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The program was launched by the Trump administration in January 2019. After Biden took office, Mayorkas suspended the program in January 2021, then officially canceled it in June 2021.

That led Texas and Missouri to sue the Biden administration in April 2021, arguing that canceling MPP violated administrative and immigration laws and

that without the program, human trafficking would increase and force the states to expend resources on migrants — such as providing driver’s licenses, educating migrant children and providing hospital care.

The case reached [the Supreme Court](#) after a federal district judge in Texas ruled last year that the Biden administration violated immigration law by not detaining every immigrant attempting to enter the country. [In August 2021](#), U.S. District Judge Matthew J. Kacsmarck ordered the Biden administration to reinstate the policy.

The administration argued it has the discretion to end the program and that it was not an effective way to deal with migrants seeking asylum.

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About 70,000 asylum-seekers have been sent to Mexico through MPP, leading to refugee camps on the Mexican side of the border, where many migrants became targets for kidnappers and drug cartels. Since the program resumed in December, immigration officials have enrolled just over [5,100 migrants](#) as of May 31, according to the [Transactional Records Access Clearinghouse](#), or TRAC, at [Syracuse University](#).

Because of Title 42, fewer people have the opportunity to make an asylum claim and be enrolled in “remain in Mexico.” Thursday’s ruling does not affect [Title 42](#).

According to an analysis by TRAC, between 2019 and 2021, less than 2% of completed MPP cases ended with a person being granted asylum. So far under the Biden administration, 27 people have been granted asylum under MPP. By comparison, [50% of cases of migrants](#) already in the U.S. with an asylum case have won their case.

Human Rights First, a New York-based organization, recorded 1,544 cases of killings, rapes and kidnappings of migrants who were forced to remain in Mexico between MPP’s launch in January 2019 and January 2021, when the Biden

administration initially suspended the policy. One woman enrolled in the program told The Texas Tribune that she had been raped by a Ciudad Juárez police officer as she waited in Mexico.

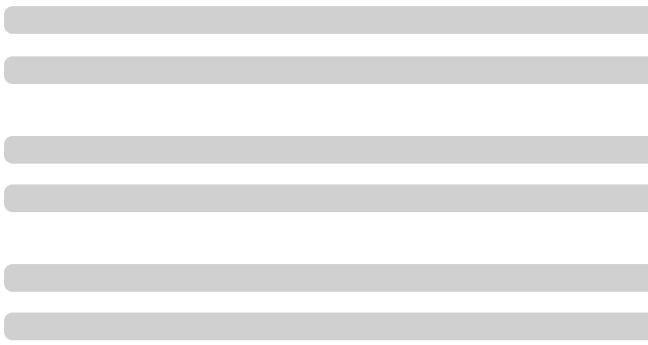
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On average, it takes five years for a migrant to get a decision on their asylum case. Under a new plan that went into effect this year, the Biden administration’s goal is to wrap up asylum cases within six months for some asylum-seekers.

Paxton filed a separate lawsuit against the Biden administration on April 28 to attempt to halt the new asylum plan. Kacsmaryk, who is based in Amarillo, is also overseeing that case, which remains pending.

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