



THE **BAFFLER**

Matt Cameron, September 8

DACApocalypse Now

A nightmarish lesson in Trump's "rule of law"

Opportunity for some. / Michael Galpert

THE DEVELOPMENT, RELIEF, AND EDUCATION FOR ALIEN MINORS (“DREAM”) Act is one of the most famous legislative failures in modern American political history. A significant majority of the American public, including over half of Republicans, would like to see it passed and yet it has been proposed and been defeated at least six times since 2001. The inevitable demonym “DREAMer” simultaneously invokes one of our country’s favorite patriotic clichés, John Lennon’s “Imagine,” and the collective hopes of an entire generation of immigrant youth.

It is all too easy to exceptionalize these DREAMers, to laud the valedictorians and sports heroes and Silicon Valley success stories to the point of fetishization. To be sure, a disproportionate number of DREAMers *are* truly exceptional, and among the most decent, principled, and talented young people I have ever had the pleasure to know. But I have come to believe that this media-driven obsession with telling the legends of the Great Immigrants among us can be just another way of othering non-citizens, of treating their lives as if they are not, in and of themselves, valuable and worthy of our respect and protection. Tales of meritocratic excellence should never come at the expense of the dignity and humanity of the Perfectly Okay Immigrants. As it happens, the DREAMers deserve our nation’s respect not because there might be a future Nobel laureate or startup billionaire or Olympic gold medalist among them, but because immigrants are—often somewhat inconveniently—people. (And even if you are inclined to disagree with that, there is a more practical concern: demographers generally agree that the United States badly needs young, healthy immigrants to bolster our workforce and social safety net.)

The truth is simpler, anyway: Most DREAMers are nearly indistinguishable from their U.S.-born millennial peers. My DACA-mented friends obsess over Beyoncé’s twins, cheer for the Sox and Pats, post silly memes and sharp political commentary and emoji-fied breakups on Facebook, and do whatever it is that everyone is doing with Snapchat. Something about learning, at the age when their classmates were getting driver’s licenses and applying for scholarships, that these opportunities would be denied them seems to have left them *understanding* this country in a way that only someone born as an outsider but raised as a peer can. They have consistently given me hope for the future of the United States in a way that few other things around me have.

DREAM most recently died in the Senate in 2011, just as the Republican Presidential primaries were coming into view. On June 15, 2012, Obama took to the Rose Garden to announce that his administration would be opening a safe harbor for DREAMers: A two-year grant of “deferred action” (later formalized as Deferred Action for Childhood Arrivals, or DACA), a guaranteed protection against deportation which included the right to employment authorization. It was the most that the president could possibly do on his own without the assistance of Congress.

But Obama did not spontaneously arrive at DACA; he was pushed. After decades of Democrats fueling the deportation machine with one hand while awkwardly reaching out to the families it destroyed with the other, it took the DREAMers having the hard conversations and reminding them that the Latino vote was neither assumed nor inevitable. DACA was, above all, the product of years of struggle and relentless advocacy from a youth movement—by and for a population of which the majority entered the United States before the age of six—with a concomitant energy, talent, and optimism that I have always found to be truly infectious. No matter this week’s setback, the series of events that made DACA a reality will stand as one of the greatest achievements in American immigration history, the culmination of a movement in which well more than a million people who never had a “line” to stand in or a “path” to follow struck out and *made one*.

As soon as Obama finished speaking, I started to call clients with children I knew to be eligible. Within a week of the announcement, I had dozens of potential DACA cases lined up, and took my office on the road to begin the necessary intake, document collection, and preliminary case preparation. I traveled New England with a paralegal I’d found on Craigslist, an aging laptop, and my clunky office printer to interview DREAMers in their homes while collecting their documents and signatures. It was as much fun as I’ve ever had in twelve years of practice.

Back in the office, I carefully assembled, indexed, triple-checked, copied, and FedExed dozens of DACA application packages—each with a check in the amount of \$465 made out to the Department of Homeland Security and a smiling photo of a young soon-to-be-formerly-undocumented immigrant clipped to it. Receipts, fingerprinting appointments, and (five to eight months later) certified mail envelopes with fresh new plastic work permits followed.

DACA was no DREAM. It was, at best, one of those restless afternoon naps one sometimes takes on a bad day hoping to wake up to something better.

None of this required the services of an experienced (or even particularly talented) immigration attorney, but there was a joy in it, a fresh, warm breeze of hope after too many years of having to tell younger clients and their families in deportation proceedings that surely DREAM or something like would become law—maybe this year. Or next? Soon.

A battered, hastily-Sharpied “DACA Box” in my office now contains the archived fruits of that summer of hope, the carefully ordered and two-hole-punched lives of a broad cross-section of several dozen New England DREAMers. These will always be some of my favorite clients. The handsome football star, the shy LiveJournaler, the youth pastor, the McDonald’s drive-through employee trying to save for a car, the aspiring model, the studious college freshman, the tortured alcoholic (as of today proudly sober for well over two years), the lovably weird kid with the DVD collection.

DACA was no DREAM. It was, at best, one of those restless afternoon naps one sometimes takes on a bad day hoping to wake up to something better. The program was the best worst solution that the president had available to him after years of congressional inaction and unusually broad public, bipartisan support. It was a modest but welcomed act of mercy, and a reasonable use of executive discretion to allocate limited immigration enforcement resources to proceed against actual (or at least perceived) threats to public safety while allowing young people who were Americans in all but name to peacefully live their lives and dreams. It brought them out of the shadows with the promise that the personal information the application and background check required would not be used against them to initiate deportation proceedings. They trusted in that promise, and in their government. We now have reason to believe that this trust may be betrayed.

The DACA program was, and remains, constitutionally and legally permissible, different from deferred action grants from every modern president prior to Obama only in its scope and administrative formality. The executive branch has always had the discretionary authority to set aside certain non-citizens as safe from deportation, as it should. I would never want to live in a country that didn’t.

On August 27, Donald Trump ignored established DOJ procedure in a rush to pardon Maricopa County Sheriff Joe Arpaio. Arpaio is a *bona fide* American monster, the kind of sadist who gives sadism a bad name. Just a month earlier, Arpaio had been held in contempt of federal court after a lengthy career of treating the rule of law with the kind of respect and circumspection that the president himself mostly reserves for women. (Trump later bragged that he had chosen a Friday night with a hurricane bearing down on Texas because he knew that this timing would guarantee high ratings.)

A week later, the fate of DACA loomed. Ten crimson-red states gave the administration until September 5 to rescind it or face a joint lawsuit to end a program which many conservatives see as an affront to the same rule of law which they have freely excused Joe Arpaio from trampling. (States are, of course, constantly suing the federal government over one thing or another; it is generally understood that the courts are their only recourse in our federalist system.) The president, a man elected on the promise of his masterful negotiation skills, allowed it to be known through a series of strategic leaks that he would be folding immediately in the face of this threat—but that he wasn't *happy* about it. An inside source reported that Trump and his attorney general were having a “tug of war” over the issue, as if Trump were somehow powerless over a member of his own cabinet and Jeff Sessions a persistent puppy chomping down on a well-worn chew toy.

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In the end, the cowardly king proved unable to swing the sword himself. Trump sent his attorney general out on a Tuesday morning to deliver prepared remarks in support of his decision to rescind DACA, which were, taken in their entirety, the single most hypocritical, self-destructive, intellectually dishonest statement that I have ever seen a public official—including Trump himself—deliver in my lifetime. To be clear: Nearly all of the points made in support of the administration's decision to end the American dreams of approximately 800,000 of the most deserving and talented immigrants this country has ever had the privilege of hosting were lies. Not political hyperbole, but open and gross prevarication.

Attorney General Jefferson Beauregard Sessions III—a nominal testament to not one but *two* heroes of the Confederacy—has openly loathed DACA for five years. There was no mistaking his enthusiasm, the elven gleam about the man as he lied to us about how DACA had somehow caused the “surge” of Central American children (actually the product of a fresh wave of horrific gang violence in countries destabilized by years of American meddling), about how this decision would somehow ultimately improve the economy (though it would cost us hundreds of billions, according to recent analysis from the conservative Cato Institute), and how it would “teach” new immigrants about the rule of law (even as we try to explain the DOJ’s virtual closure of the Civil Rights Division and Trump’s endorsement of police brutality). And he repeated tired lies about theft of American jobs and threats to American public safety. These lies were punctuated only by more sanctimonious clichés about the “rule of law,” which would have felt empty before the Arpaio pardon and were rendered openly laughable after it.

In a final insult to decency, Sessions claimed that he and the Department of Justice didn’t believe that DACA could survive a legal challenge. This is absurd under any circumstances, but especially so given how thoughtlessly this administration has committed itself to defending far more questionable executive orders. Within a week of his inauguration, President Trump rushed through an executive order to suspend all refugee admissions and revoke hundreds of thousands of visas from majority-Muslim countries—an order that, we now know, he and Steve Bannon drafted without consulting lawyers from the Department of Justice *or* the Department of Homeland Security. He dared the states to stop him; they took him up on it, likely costing the federal government millions in at least nine high-profile legal challenges to both the first and then the second revised (lawyer-approved) travel ban. In refusing to enforce or defend the president’s order, acting attorney general Sally Yates provided essentially the same reasons that Sessions did for ending DACA—and immediately lost her job for it. And yes, this is the very same administration that has also recently expressed its willingness to litigate its wholly indefensible decision to exclude transgender military service personnel.

“We have got,” Senate Democratic superstar Kamala Harris said on Wednesday, “to stop playing politics with these kids.” It was unclear exactly to whom this was addressed, since Senator Harris’s own party bears as much (and arguably more) responsibility as the Republicans for using the undocumented as cheap political chattel since at least the Clinton era, but Harris was right.

Trump has now once again forced the issue. A “clean” bipartisan DREAM Act on its own terms—entirely unmoored from border militarization, extra funding for the massive and growing deportation machine, and direct threats to the parents of DREAMers—is not only now politically possible, but morally imperative.

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