

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

STATE OF TEXAS,

*Plaintiff,*

v.

The UNITED STATES OF AMERICA;  
DAVID PEKOSKE, Acting Secretary of the  
United States Department of Homeland  
Security, in his official capacity; UNITED  
STATES DEPARTMENT OF HOMELAND  
SECURITY; TROY MILLER, Senior Official  
Performing the Duties of the Commissioner  
of U.S. Customs and Border Protection, in  
his official capacity; U.S. CUSTOMS AND  
BORDER PROTECTION; TAE JOHNSON,  
Acting Director of U.S. Immigration and  
Customs Enforcement, in his official  
capacity; U.S. IMMIGRATION AND  
CUSTOMS ENFORCEMENT; TRACY  
RENAUD, Senior Official Performing the  
Duties of the Director of the U.S. Citizenship  
and Immigration Services, in her official  
capacity; U.S. CITIZENSHIP AND  
IMMIGRATION SERVICES,

*Defendants.*

Civ. Action No. \_\_\_\_\_

**EXHIBIT C**



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 21, 2021

David Pecoske  
Acting Secretary, Department of Homeland Security  
Washington, D.C. 20528  
ogc@hq.dhs.gov  
ogcexecsec@hq.dhs.gov  
david.palmer@hq.dhs.gov  
stephen.mccleary@hq.dhs.gov  
sharmistha.das@hq.dhs.gov  
*via email and certified mail, return receipt requested*

Re: DHS's Unlawful "Pause on Removals"

Dear Mr. Pecoske:

Yesterday you ordered a blanket halt on nearly all deportations of illegal aliens. This complete abdication of the Department of Homeland Security's ("DHS") obligation to enforce federal immigration law is unlawful and will seriously and irreparably harm the State of Texas and its citizens.

Specifically, your memorandum directed DHS to impose "an immediate pause on removals of any noncitizen with a final order of removal [subject to limited exceptions] for 100 days to go into effect as soon as practical and no later than January 22, 2021."<sup>1</sup> Should such a directive be legal or left unchallenged, DHS could attempt to renew that directive indefinitely or issue a similar directive for an even longer period of time. That would allow the Biden Administration to grant blanket amnesty to the vast majority of the illegal aliens in this country with the stroke of a pen and without congressional approval.

---

<sup>1</sup> Memo. from David Pecoske, *Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities* (Jan. 20, 2021), [https://www.dhs.gov/sites/default/files/publications/21\\_0120\\_enforcement-memo\\_signed.pdf](https://www.dhs.gov/sites/default/files/publications/21_0120_enforcement-memo_signed.pdf) (footnote omitted).

Letter to Acting Secretary Pecoske  
January 21, 2021  
Page 2

Border states like Texas pay a particularly high price when the federal government fails to faithfully execute our country's immigration laws. Your attempted halt on almost all deportations would increase the cost to Texas caused by illegal immigration. DHS itself has previously acknowledged that such a "pause on . . . removals" will cause "concrete injuries to Texas." *See* Agreement between Department of Homeland Security and the State of Texas ("Agreement") § 2.

As a result of that particularized interest in the effective operation of our immigration system, Texas has agreed to cooperate with the federal government in its execution of immigration enforcement. *See* Agreement. Your attempt to halt deportations violates our Agreement in multiple ways.

First, DHS is obligated to consult with Texas *before* reducing immigration enforcement, pausing removals, or declining to decrease the number of removable aliens residing in the United States. *See* Agreement §§ 2, 3.A. Prior to issuing yesterday's memorandum, however, DHS did not contact Texas at all, much less comply with the notice and consultation requirements of our Agreement. *See* Agreement § 3.A.2-3.

Second, DHS agreed "to prioritize the protection of the United States and its existing communities," including by "promot[ing] the return or removal from[] the United States of inadmissible and removable aliens." Agreement § 3.A.1. Needless to say, a broad "pause" on the removal of illegal aliens does not "promote . . . removal."

This letter serves as notice that Texas believes DHS has violated the Agreement; it is not a comprehensive list of the many legal defects in your memorandum. *See* Agreement § 8. Texas would like to resolve this dispute, but you must immediately rescind the January 20 Memorandum. DHS's failure to provide Texas with pre-implementation notice of the memorandum—combined with its quick implementation of the memorandum—makes waiting impracticable. We require an immediate response or we will seek relief to enjoin your order, as contemplated by the Agreement. Agreement § 6.

Letter to Acting Secretary Pecoske  
January 21, 2021  
Page 3

Best regards,



---

Ken Paxton  
Attorney General of Texas

Office of the Attorney General  
P.O. Box 12548 (MC-009)  
Austin, Texas 78711-2548

cc: The Honorable Greg Abbott, Governor of Texas  
1100 San Jacinto Boulevard, 4th Floor  
Austin, Texas 78701

U.S. Customs and Border Protection  
Office of the Commissioner  
1300 Pennsylvania Ave. NW  
Washington, D.C. 20229

U.S. Immigration and Customs Enforcement  
Office of the Director  
500 12th Street SW  
Washington, D.C. 20536

U.S. Citizenship and Immigration Services  
Office of the Director  
5900 Capital Gateway Drive  
Suitland, Maryland 20746