

Dreamers' nightmare leaves them stuck on ground

by Jacob M. Monty
Monty & Ramirez, LLP

U.S. Immigration and Customs Enforcement (ICE) detained a flight attendant for Phoenix-based Mesa Airlines in Houston after a recent return flight from Mexico. Selene Saavedra Roman is a 28-year-old Texas A&M graduate who grew up in Dallas and is a "Dreamer." That is, she is a Deferred Action for Childhood Arrivals (DACA) recipient. She had only just recently landed her dream job with the airline.

Because of her immigration status, Selene requested only domestic flights. When she was scheduled for the flight to Mexico, she expressed concern to her employer but was assured she would be fine. Unfortunately, she wasn't fine. On February 12, 2019, after being detained in Houston, she was transferred to a detention center where she remained for five and a half weeks before being released. But that isn't the end of her deportation case.

In April, Selene's initial appearance was rescheduled, and she has yet to be charged. According to her attorney, Selene was released because of pressure from the media, the Association of Flight Attendants, and Mesa Airlines CEO Jonathan Ornstein. Additionally, her attorney says ICE has not been forthcoming with any details or information about her detention.

How Selene and others qualified for DACA

On June 15, 2012, the secretary of U.S. Department of Homeland Security (DHS) announced that certain people who came to the United States as children and met several guidelines could request consideration of deferred action for a period of two years, subject to renewal. "Deferred action" is a use of prosecutorial discretion to defer the removal action against an individual for a certain period of time. The DACA recipients would be eligible for work authorization. Here were the requirements:

- Applicants had to arrive before the age of 16 and be under 31 as of June 15, 2012;
- They had to reside in the United States continuously since June 15, 2007;
- They had to be enrolled in or graduated from school, or had obtained a GED; and
- They could have no criminal record.

Since the Trump administration ended DACA on September 5, 2017, several lawsuits have been filed against the government for terminating the program unlawfully. As a result, three nationwide injunctions issued by U.S. district courts have allowed people who previously had DACA to renew their deferred action.

Travel updates

Since 2012, if Dreamers needed to travel abroad for humanitarian, labor, or educational purposes, they could apply for advance parole. Under "advance parole," DHS would allow the undocumented immigrants to travel outside the United States temporarily and return without penalty. Generally, USCIS would grant advance parole only if the travel abroad would be in furtherance of:

- Humanitarian purposes, including travel to obtain medical treatment, attend a family member's funeral services, or visit an ailing relative;
- Educational purposes, such as semester-abroad programs and academic research; or
- Employment purposes, such as foreign assignments, interviews, conferences, training, or meetings with clients overseas.

International travel for vacation wasn't a valid basis for advance parole. If Dreamers traveled abroad before getting advance parole, USCIS would revoke their DACA status.

The Trump administration's order to rescind the DACA program in 2017 halted the approval of advance parole for Dreamers. The government hasn't reinstated their ability to apply for advance parole.

Takeaways

DACA recipients do have some limited rights such as deferment of deportation, and they are authorized to work, but remain on a very short leash. They are subject to having their status revoked for committing a minor infraction and cannot travel. As the USCIS website explains, if Dreamers travel without advance parole, the agency will revoke their DACA status.

[Jacob M. Monty](#) is the managing partner of [Monty & Ramirez, LLP](#) and an editor of [Texas Employment Law Letter](#). He can be reached at jmonty@montyramirezlaw.com.