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## Supreme Court of the United States

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# Chief Justice Roberts pauses lifting of Title 42, keeping migrant policy in place for now



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WASHINGTON – Chief Justice John Roberts on Monday temporarily blocked the Biden administration from ending the pandemic-era Title 42 immigration policy, leaving in doubt whether officials will continue to expel migrants over concerns about public health risks.

The decision was the result of the short fuse lit by 19 conservative states that filed an emergency appeal at the Supreme Court earlier Monday. The states had asked the justices to block a lower court ruling requiring President Joe Biden to end the Title 42 expulsions by Wednesday.

Roberts ordered the Biden administration to respond to the appeal from the states by 5 p.m. EST Tuesday, a rapid turnaround by Supreme Court standards.

Roberts' single-page order came as Republican officials have ramped up criticism of his decision to end the Trump-era policy, both in court filings and public statements. Texas Gov. Greg Abbott, a Republican, warned of "total chaos" if the policy is lifted.

Though the move may pause what many fear will be a new influx of migrants on the southern border, the administrative stay doesn't necessarily signal which way the high court is leaning on the broader questions about the policy. Roberts, or the court, will likely issue another order in a matter of days.

Title 42 permits Customs and Border Protection to expel migrants without the usual legal review to Mexico or to their home countries to prevent the spread of COVID-19 in holding

facilities. The Biden administration announced in April that it intended to wind down the policy.

If the Supreme Court ultimately declines their request, the states said in their appeal earlier Monday, it would "inflict massive irreparable harms on the states" and "unprecedented calamity at the southern border." But the White House has disputed that characterization and press secretary Karine Jean-Pierre told reporters Monday that the administration is "surging resources" to the border.

The Title 42 program will remain in effect as the case continues, the Department of Homeland Security said in a statement late Monday. The administration, DHS said, would "continue our preparations to manage the border in a safe, orderly, and humane way when the Title 42 public health order lifts."

Biden was planning to end Title 42 expulsions anyway. But in November, U.S. District Judge Emmet Sullivan in Washington, D.C., said the policy's implementation violated federal law and gave the Biden administration until Wednesday to end it. Nineteen conservative states, including Texas and Arizona, are trying to intervene and block that decision. The states lost in a federal appeals court on Friday and, on Monday, they took their request up to the Supreme Court.

Title 42 has been used to expel migrants more than 2.4 million times since its implementation in 2020 and has bottled up tens of thousands of migrants in Mexican border cities who are waiting to request asylum in the United States. Immigration experts say that once the measure is lifted, it could trigger a sudden surge in asylum-seeking migrants being released in communities in border states.

"People worry that terminating Title 42...will mean more people will try to enter the United States from Mexico. But those pressures existed before the Trump administration implemented Title 42," said Stephen Yale-Loehr, a Cornell Law School professor who specializes in immigration. "Climate change, poverty, gang violence, and failed states all contribute to people's desperation to move."

The Biden administration has stressed that it will continue to remove migrants who don't qualify for asylum.

A separate ruling from a federal judge in Louisiana in May blocked Biden's plan to terminate Title 42. That case is being reviewed by the New Orleans-based U.S. Court of Appeals for the 5th Circuit.

*Contributing: Tami Abdollah, The Arizona Republic*