

FILED

JUL 19 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CRISTIAN DOE; DIANA DOE,

Petitioners-Appellees,

v.

ALEJANDRO MAYORKAS, Secretary of
Homeland Security; et al.,

Respondents-Appellants.

No. 20-55279

D.C. No.

3:19-cv-02119-DMS-AGS

ORDER

Appeal from the United States District Court
for the Southern District of California
Dana M. Sabraw, Chief District Judge, Presiding

Argued and Submitted November 13, 2020
Submission Vacated December 15, 2020
Resubmitted July 16, 2021
Pasadena, California

Before: CHRISTEN and WATFORD, Circuit Judges, and ROSENTHAL,* District Judge.

On December 15, 2020, we vacated submission of this appeal pending the Supreme Court's disposition of *Mayorkas v. Innovation Law Lab*, No. 19-1212, an

* The Honorable Lee H. Rosenthal, Chief United States District Judge for the Southern District of Texas, sitting by designation.

appeal that challenged the Migrant Protection Protocols (MPP). The Department of Homeland Security terminated the MPP on June 1, 2021. Memorandum from Alejandro N. Mayorkas regarding Termination of the Migrant Protection Protocols Program 7 (June 1, 2021), available at <https://go.usa.gov/x6s7E>. On June 21, 2021, the Supreme Court issued an order vacating the judgment in *Innovation Law Lab* and remanding to the Ninth Circuit with instructions to direct the district court to vacate as moot the April 8, 2019 preliminary injunction that enjoined the Department of Homeland Security from implementing the MPP.

This appeal before us challenges a discrete procedural sub-issue of the now-terminated MPP. Because the Supreme Court decided that a challenge to the MPP as a whole was moot after the government terminated the program, we conclude that the narrower question presented in this appeal is also moot. Accordingly, we remand this case to the district court with instructions to vacate the January 14, 2020 order granting the motion for classwide preliminary injunction as moot. *See United States v. Munsingwear, Inc.*, 340 U. S. 36 (1950).¹

REMANDED

¹ Appellees' motion to file a supplemental brief, ECF 30, is DENIED as moot. Appellees' motion to supplement the record on appeal, ECF 55, is GRANTED.