

**WASHINGTON LEGAL FOUNDATION**  
**NEWS ALERT**

**July 28, 2010**

**FEDERAL DISTRICT COURT STRIKES DOWN  
ALL MAJOR PROVISIONS OF ARIZONA IMMIGRATION LAW**  
*(United States v. State of Arizona)*

Judge Susan Bolton, a Clinton appointee on the U.S. District Court for the District of Arizona, today issued a preliminary injunction against enforcement of all major provisions of SB 1070, the recently adopted Arizona statute that seeks to crack down on illegal immigrants living within the State. The enjoined provisions include § 2(B) of SB 1070 (which directs Arizona law enforcement officers to check the immigration status of those they have been lawfully stopped, whenever they have a reasonable suspicion that the individual is an illegal alien); § 3 (which makes it a criminal offense for an illegal alien to fail to carry alien registration papers); and a portion of § 5 (which makes it a criminal offense for illegal aliens to solicit or perform employment within the State).

Judge Bolton held that the enjoined provisions conflict with the purposes of federal immigration law – and thus are impliedly preempted by federal law. The judge did not reach constitutional claims raised by the ACLU and other plaintiffs. Those plaintiffs alleged that the law was likely to lead to racial discrimination against individuals of Hispanic origin.

WLF has participated actively in the litigation in defense of SB 1070. WLF's clients in the various lawsuits challenging the law include Arizona Senator Russell Pearce (the author of SB 1070), Arizona Rep. John Kavanagh (the principal sponsor in the Arizona House of Representatives), 18 Members of the U.S. House of Representatives, and four organizations interested in strong enforcement of immigration laws. Commenting on Judge Bolton's decision, WLF Chief Counsel Richard Samp said:

Judge Bolton's decision cries out for appeal. It is extraordinary for a federal judge to enjoin enforcement of a state law even before the law is allowed to go into effect. Until SB 1070 begins to be applied, Judge Bolton has no reasonable basis for concluding that it will be enforced in a manner that conflicts with federal law. For example, she struck down the "immigration status check" provision on the ground that federal officials would be unduly burdened if they were forced to respond to status requests from Arizona officials every time someone is arrested in the State. But in reaching that conclusion, she totally ignored Arizona's assurance that it would make immigration status requests *only* when state officials had reasonable suspicion that the arrestee was an illegal alien. Federal law requires judges to abide by state officials' reasonable interpretations of their own statutes.

**Richard A. Samp**, counsel for WLF in the *U.S. v. Arizona*, is available for comment at (202) 588-0302. Copies of WLF briefs are available at its website, [www.wlf.org](http://www.wlf.org).

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