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## **COURT UPHOLDS ARIZONA LAW DESIGNED TO PREVENT ALIEN VOTING**

*(Gonzalez v. State of Arizona)*

The U.S. District Court for the District of Arizona yesterday rejected a challenge to Proposition 200, an initiative adopted in November 2004 by Arizona voters. The initiative was designed to prevent aliens from voting.

The decision was a victory for WLF, which filed a brief in the case, *Gonzalez v. State of Arizona*, urging the court to deny a request for a preliminary injunction against Prop 200. WLF argued that Arizona voters were well within their rights in adopting measures designed to prevent election fraud -- including a requirement that those seeking to register to vote must provide documentary proof of citizenship and a requirement that voters provide a picture ID when they come to the polls. WLF argued that these measures violate neither the U.S. Constitution nor the National Voting Rights Act of 1993 (NVRA), which requires all States to permit mail-in voter registration.

The court's two-page order did not explain the court's reasons for upholding the law. Rather, U.S. District Judge Roslyn Silver said that an opinion explaining her decision in more detail "will follow." The plaintiffs have stated that they will appeal the decision to the U.S. Court of Appeals for the Ninth Circuit in San Francisco. WLF has pledged to continue its defense of Prop 200 before the appeals court.

WLF is representing Protect Arizona NOW (PAN), the group that spearheaded adoption of Proposition 200. WLF also represented PAN in prior litigation challenging other portions of Proposition 200 that seek to prevent illegal aliens from collecting welfare benefits. WLF prevailed in the prior litigation, and the welfare-related provisions are not at issue in the latest round of lawsuits.

Three separate lawsuits were filed within the past four months challenging Proposition 200's election fraud provisions. Those cases were consolidated, and the Plaintiffs filed motions asking the district court judge to issue a preliminary injunction against the election fraud provisions. WLF filed its brief in opposition to the requested injunction.

The court's order indicated that the judge is still considering a small portion of the requested injunction. One of the three injunction motions was filed by the Navajo

Nation, which contends that Prop 200 violates the rights of Navajos under the federal Voting Rights Act. The court requested that the parties submit additional briefing on that claim. Nonetheless, even if the court were to grant some relief to the Navajos, it is unlikely that any such relief would affect registration and voting outside of the Navajo reservation.

"Evidence suggests that thousands of aliens are improperly registered to vote in Arizona and elsewhere in this country," said WLF Chief Counsel Richard Samp after reviewing the court's decision. "Americans will soon lose faith in the integrity of the election process if States are not permitted to take effective steps to ensure that aliens are not voting," Samp said.

The plaintiffs assert that Proposition 200 imposes onerous documentation requirements that will discourage citizens from attempting to register and vote. WLF's brief disputed that assertion, noting that one of the many documents accepted by Arizona election officials as proof of citizenship is a driver's license and that 90% of all Arizona citizens possess a license. WLF argued that in light of the relatively minor documentation burden imposed by Proposition 200 on prospective voters and Arizona's significant interest in preventing election fraud, Proposition 200 does not infringe on anyone's constitutional right to vote. WLF also argued that while the NVRA (a 1993 federal law often referred to as the "motor-voter" law) mandates that States permit voter registration by mail, nothing in the NVRA prohibits States from requiring anyone registering by mail to attach to his registration form copies of documents (*e.g.*, a birth certificate or a driver's license) evidencing citizenship.

WLF is a public-interest law and policy center with supporters in all 50 states, including many in Arizona. It devotes a significant portion of its resources to combatting illegal immigration and ensuring that aliens who engage in criminal activities are excluded from American society.

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For further information, contact WLF Chief Counsel Richard A. Samp (202) 588-0302. A copy of WLF's brief is posted on its web site, [www.wlf.org](http://www.wlf.org).