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COURT LARGELY REJECTS U.S. CHALLENGE TO ARIZONA IMMIGRATION LAW

(Arizona v. United States)

The U.S. Supreme Court this week largely rejected the Obama Administration's challenge to the new Arizona law that cracks down on illegal aliens. While upholding a challenge to several minor provisions of the law, the Court overturned a preliminary injunction against enforcement of the key provision of the law, which directs Arizona law enforcement officers to check the immigration status of those they have lawfully stopped, whenever they have a reasonable suspicion that the individual is an illegal alien.

The decision in *State of Arizona v. United States* was a victory for the Washington Legal Foundation (WLF), which argued that the Arizona statute (known as SB 1070) did not conflict with federal law but rather was a well-designed effort to provide enforcement assistance to federal immigration officials. WLF filed its brief on behalf of 12 members of the U.S. House of Representatives (Judiciary Committee Chairman Lamar Smith as well as Brian Bilbray, Dan Burton, Trent Franks, Wally Herger, Duncan Hunter, Steve King, Tom McClintock, Ted Poe, Dana Rohrabacher, Ed Royce, and David Schweikert) and the Allied Educational Foundation.

“The Supreme Court unanimously recognized that State and local governments have an important role to play in enforcing our Nation's immigration laws,” said WLF Chief Counsel Richard Samp following the Court's decision. “Unless they are both permitted and encouraged to assist the federal government in enforcing those laws, it is unlikely that we will ever be able to stem the flood of illegal immigrants,” Samp said.

SB 1070 is an effort to assist federal authorities in implementing several well-established federal policies: removing illegal aliens from the U.S. and eliminating incentives that cause many such aliens to seek to remain here. SB 1070 includes numerous safeguards to ensure that it does not result in harassment of citizens and resident aliens, including provisions that prevent Arizona officials from taking action until after they have been informed by federal officials that a suspect is, indeed, an illegal alien.

Congress has adopted many laws designed to encourage state and local governments to assist in the immigration enforcement effort. Nonetheless, the Obama Administration determined that it did not want States to provide the level of assistance that Arizona was offering, and in July 2010 filed a lawsuit seeking an injunction against

enforcement of SB 1070. The Supreme Court's decision largely reversed a decision of the U.S. Court of Appeals for the Ninth Circuit, which had upheld a preliminary injunction against enforcement of § 2(B) of SB 1070, the key provision of the law. But for the injunction, the law would have taken effect in July 2010.

WLF's brief defended the constitutionality of § 2(B) of SB 1070, which requires Arizona law enforcement personnel to verify the immigration status of every individual whom they stop, detain, or arrest. The Court agreed with WLF that § 2(B) does not conflict with federal immigration law, given that Congress adopted a statute *requiring* federal officials to respond to every inquiry they receive from state and local officials regarding a named individual's immigration status. The Court noted that federal officials are not required to take custody of illegal aliens uncovered by Arizona's enforcement efforts; and that if they decline to take custody, Arizona law provides that local police will release the aliens from state custody unless they have some other valid reason to maintain custody.

The Washington Legal Foundation is a nonprofit public interest law and policy center based in Washington, D.C. with members and supporters in all 50 States, including many in Arizona. WLF has appeared in courts across the country to ensure that governments at all levels possess the resources to combat illegal immigration.

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