



Written by [R. Cort Kirkwood](#) on February 4, 2021

Arizona Files Lawsuit Against Deportation Halt, Says Biden's Order Illegal

Open-borders leftists are learning they aren't the only people who can run to the federal courts to block a president's immigration decrees.

Last week, [Texas filed](#) a lawsuit to block President Biden's thoughtless 100-day halt to deportations. A federal judge laid down a nationwide restraining order until he can consider a preliminary injunction.

Now, Arizona has done the same. It says Biden violated a federal law that says the government must deport illegals ordered out of the country, and that the Department of Homeland Security broke an agreement with the state.



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The Lawsuit

"Our office filed a lawsuit against DHS and federal officials over a policy that puts Arizona public safety at risk," Arizona Attorney General Mark Brnovich tweeted. "The 100-Day Pause on Deportations includes those charged with or convicted of a crime."

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— Mark Brnovich (@GeneralBrnovich) [February 3, 2021](#)

Aside from Biden's violating federal law and breaking the agreement, the lawsuit cites two other issues: thugs and criminals that [Biden's Day One executive order](#) protects, and the release of Chinese Virus carriers into Arizona. As well, the lawsuit says, the order was "arbitrary and capricious."

"Arizona, as a border state, will be directly impacted by Defendants' decision to flout their legal obligations," the [lawsuit says](#). "Arizona's law enforcement community is particularly concerned that aliens who have been charged or convicted of crimes will be released as a result of DHS's 100-day moratorium."

And, a footnote says, Biden "has not excluded unauthorized aliens that have committed [violent] crimes from its 100-day moratorium."

"Releasing individuals during the COVID-19 pandemic will further stress hospitals and social services at the local and county level," the lawsuit says.

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Yet "federal on this issue is clear," the lawsuit continues. Once an alien has a final order of deportation,



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he gets the boot back home where he belongs:

When an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days.” [8 U.S.C. § 1231\(a\)](#). But, in Defendants’ view, “shall” does not really mean “shall” or “must,” but instead merely “may.” In other words, despite a clear mandate of federal statutory law, Defendants believe that there are literally no constraints whatsoever on their authority, and they may release individuals, including those charged with or convicted of crimes, even when immigration courts have already ordered their removal from the United States.

The agreement to help Arizona deal with illegal aliens recognizes that the state is “directly and concretely affected by changes to DHS rules and policies that have the effect of easing, relaxing, or limiting immigration enforcement, and that “a decrease or pause on ... removals of removable or inadmissible aliens” “result[s] in direct and concrete injuries to [Plaintiff].”

The agreement says DHS must consult with Arizona “before taking any action ... that could ... pause or decrease the number of returns or removals inadmissible aliens from the country.”

DHS did not do so. Nor did it provide Arizona with the required 180 days for the chance to “consult and comment on the proposed action, before taking any such action.”

DHS refused to answer Brnovich’s appeal to comply with the law.

Biden’s open-borders order is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law” because it is a “sharp departure from DHS’s previous Policy” and did not provide “a reasoned justification for their sudden change in policy.”

Continued the lawsuit:

There is no indication that Defendants considered the costs of adopting the Memorandum, including the threats to public safety....

There is also no indication that Defendants considered alternative approaches that would allow at least some additional removals to continue beyond the extremely limited exceptions in the Memorandum. This would include aliens charged or convicted of crimes. The Supreme Court recently held that a DHS immigration action was arbitrary and capricious where it was issued “‘without any consideration whatsoever’ of a [more limited] policy.”

Texas Lawsuit

[Texas prevailed](#) in a similar lawsuit now before a federal judge there.

“Victory,” Texas AG Ken Paxton tweeted.

Texas is the FIRST state in the nation to bring a lawsuit against the Biden Admin.

AND WE WON.

Within 6 days of Biden’s inauguration, Texas has HALTED his illegal deportation freeze.

This was a seditious left-wing insurrection. And my team and I stopped it.



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— Attorney General Ken Paxton (@KenPaxtonTX) [January 26, 2021](#)



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