



Written by [Dave Bohon](#) on April 25, 2012

High Court Hears Arguments in Ariz. Immigration Case

Following its passage in 2010, Arizona's Support Our Law Enforcement and Safe Neighborhoods Act (S.B. 1070) became the target of a [lawsuit by President Obama's Department of Justice](#) (DOJ), which asked U.S. District Judge Susan Bolton (left) to overturn the law on the grounds that the "power to regulate immigration is exclusively vested in the federal government."



Bolton ruled in favor of the DOJ, and was backed up by the U.S. 9th Circuit Court of Appeals, which by a 2-1 vote put on hold the four key parts of the Arizona law (as explained by [CNN](#)):

A requirement that local police officers check a person's immigration status while enforcing other laws if "reasonable suspicion" exists that the person is in the United States illegally.

A provision authorizing police to arrest immigrants without warrant where "probable cause" exists that they committed any public offense making them removable from the country.

A section making it a state crime for "unauthorized immigrants" to fail to carry registration papers and other government identification.

A ban on those not authorized for employment in the United States to apply, solicit, or perform work. That would include immigrants standing in a parking lot who "gesture or nod" their willingness to be employed.

As reported by the Associated Press, following oral arguments in the case the Supreme Court Justices suggested that they were prepared to allow Arizona to enforce the part of the law requiring police officers to check the immigration status of those they think may be in the country illegally.

The AP noted that both liberal and conservative justices "reacted skeptically to the Obama Administration's argument that the state exceeded its authority when it made the records check, and another provision allowing suspected illegal immigrants to be arrested without a warrant, part of the Arizona law aimed at driving illegal immigrants elsewhere."

At one point in the intense oral arguments, conservative Justice Antonin Scalia asked attorneys for the federal government: "What does government mean if it doesn't allow states to defend its borders." Commented liberal Justice Sonia Sotomayor of Solicitor General Donald Verrilli's arguments against the law: "You can see it's not selling very well."

While the High Court's ultimate ruling in the case will address key questions concerning the law's enforcement, it will also doubtless have larger constitutional ramifications. "Several other states followed Arizona's lead by passing laws meant to deter illegal immigrants," reported [CNN](#). "Similar laws are under challenge in lower courts in Georgia, Alabama, Utah, Indiana and South Carolina. Arizona's appeal is the first to reach the Supreme Court."

Even as the Obama administration has argued that immigration policy is the exclusive domain of the federal government, Arizona and other states have countered that they have been forced to address the



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burgeoning onslaught of illegals into their jurisdictions because of the fed's refusal to deal with the issue. Unmistakably, however, politics are also a key consideration in how the issue is resolved.

"The election-year legal debate goes to the heart of the dispute between Republicans and Democrats over what to do about the estimated 11 million illegal immigrants living and working in this country," noted the [Los Angeles Times](#). "Arizona and the other five states seek a stepped-up effort to arrest and deport aliens who are here illegally. They say the federal system is broken and fault Obama for what they call a 'relaxed posture' toward enforcement."

Meanwhile, Democrats are preparing for the possibility that the High Court may ultimately rule in favor of Arizona, confirming the right of states to protect their borders from the entry of illegal aliens. Reported the *Times*: "Senate Democrats, eyeing an electoral advantage with Latino voters, served notice Tuesday they will seek legislation to overturn Arizona's law if the Supreme Court were to revive it this summer."

Liberal U.S. Senator Charles Schumer (D-N.Y.), chairman of the Senate's immigration subcommittee, declared during an April 24th hearing on the issue that the High Court "should find the Arizona law unconstitutional, but if it doesn't, Congress will be ready. States should be barred from taking immigration enforcement measures into their own hands and imposing penalties as they see fit."

At the Democrat-staged hearing, Schumer marshaled witnesses to testify to the danger of the Arizona law. Democratic Arizona State Senator Steve Gallardo argued that if allowed to stand, the law would make Latinos the target of criminals, "because Latinos are less likely to report crimes to law enforcement out of fear of having themselves deported or even a loved one deported." He said that "many Latina women face nightmare situations if they are victims of domestic violence. Because of Senate Bill 1070, many of these women are placed in a position where they cannot report their abuser in fear of getting deported. In some cases, these women are held hostage in their own home."

Pleaded Gallardo to Schumer and the assembled Senators: "Mr. Chairman, members, no woman regardless of immigration status should ever be placed in harm's way."

As reported by [CNSNews.com](#), a spokesman for Arizona Governor Jan Brewer said she declined an invitation to the hearing, calling it little more than a "publicity stunt" and not "the most productive hearing" for her to attend. Similarly, Republican senators on the subcommittee also skipped the stacked and staged hearing.

One proponent of immigration reform who did testify was former Arizona State Senator Russell Pearce, author of S.B. 1070, who told the subcommittee that "we have a national crisis, and yet everyone wants to ignore that — the cost, the damage, the crime" that comes with unchecked illegal immigration.

Addressing the charge that there is a racial motivation behind efforts to shut down the flood of illegal entries, Pearce told the subcommittee: "Illegal immigration is a crime, not a race. It doesn't pick out any nationality. It just so happens that 90 percent of those who violate our immigration laws come from across that southern border or are Hispanic."

Pearce challenged Schumer: "Mr. Chairman, we have a national crisis, and yet we continue to ignore it. And there are some that run for office talking about building the darn fence, but [we] never hear it again once they're elected. I think Americans are a little tired of the drive-by statements by politicians instead of dealing with the issue at hand. Enforce our laws. Secure our border. It's not too much to ask."



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The *Los Angeles Times* reported that Arizona's chief attorney in the case, former Bush administration Solicitor General Paul Clement, will try to convince a majority of Supreme Court justices that in implementing S.B. 1070, "the state is not creating a new immigration policy, but instead is seeking to help enforce the federal laws on the books."

The *Times* noted that Clement has the momentum of at least one precedent. "Last year, the court's five more-conservative justices rebuffed the administration and upheld an earlier Arizona immigration law that targeted employers who hired illegal workers," reported the paper.

In order for Obama to score an election year victory in the case, the DOJ "must convince at least one of the five [justices] to switch sides and rule that the state is going too far and interfering with the federal government's control over immigration policy," continued the *Times*.

Wisely, apparent GOP presidential candidate Mitt Romney has for now come down on the side of the Arizona law, declaring that he supports such measures that will slow the flow of illegals into the country. "The answer is self-deportation," he declared in one debate. In fact, noted the *Times*, "Romney has pledged that if elected president, he would 'drop these lawsuits on Day 1.' "

CNN noted that the case, [Arizona v. U.S. \(11-182\)](#), is the last case the High Court will hear this term. A ruling could come as early as the end of June, as the justices prepare for their summer recess.



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