



Written by [R. Cort Kirkwood](#) on August 2, 2018

Ninth Circuit: Trump Can't Defund Sanctuaries

The radical left's judiciary arm has again usurped the federal government's ability to enforce immigration law, this time overturning as unconstitutional the Trump administration's executive order that blocks "sanctuary cities" from receiving some federal funds.

The ruling from the United States Court of Appeals for the Ninth Circuit is a victory for San Francisco, a city whose sanctuary policy has led to the death of at least four Americans. Immigration anarchy will continue in the city.

And the ruling is a far cry from the Ninth Circuit's rejection of locally-made immigration law during the Obama administration.

The Ruling

Hearing an appeal of [an injunction from](#) the U.S. district court in San Francisco, [the Ninth Circuit ruled](#) that the Trump administration cannot withhold funds from sanctuary cities for a simple reason: The separation of powers.



We conclude that, under the principle of Separation of Powers and in consideration of the Spending Clause, which vests exclusive power to Congress to impose conditions on federal grants, the Executive Branch may not refuse to disperse the federal grants in question without congressional authorization. Because Congress has not acted, we affirm the district court's grant of summary judgment.

The court opined that "the Administration has not even attempted to show that Congress authorized it to withdraw federal grant moneys from jurisdictions that do not agree with the current Administration's immigration strategies."

"Nor could it," the court continued. "In fact, Congress has frequently considered and thus far rejected legislation accomplishing the goals of the Executive Order."

"The United States Constitution exclusively grants the power of the purse to Congress, not the President," the court opined, and "Congress's power to spend is directly linked to its power to legislate."

As well, the court found that the memorandum from the Department of Justice on the matter "does not bind other agencies."

The court reversed the nationwide application of the injunction against Trump's order.

Trump's Order

The court ruled against Trump's Executive Order 13768, "Enhancing Public Safety in the Interior of the United States," which cited the Immigration and Nationality Act as its authority.



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[That order, read, in part:](#)

Sanctuary jurisdictions across the United States willfully violate Federal law in an attempt to shield aliens from removal from the United States. These jurisdictions have caused immeasurable harm to the American people and to the very fabric of our Republic.

Tens of thousands of removable aliens have been released into communities across the country, solely because their home countries refuse to accept their repatriation. Many of these aliens are criminals who have served time in our Federal, State, and local jails. The presence of such individuals in the United States, and the practices of foreign nations that refuse the repatriation of their nationals, are contrary to the national interest.

San Francisco is among those jurisdictions — with deadly results.

[An illegal alien murdered](#) a father and two sons in 2008, and more recently, Kate Steinle fell victim to another illegal alien the city loosed upon unsuspecting San Franciscans. [A jury acquitted](#) the smack-dealing Mexican national.

Stories such as these are the reason Trump acted.

[A spokesman for the Justice Department explained](#) what the ruling means: It is, he said, “a victory for criminal aliens in California, who can continue to commit crimes knowing that the state’s leadership will protect them from federal immigration officers whose job it is to hold them accountable and remove them from the country.”

Second Defeat

This is Trump’s second defeat at the hands of California’s lunatic Left. In early July, [a federal judge ruled](#) that California does not have to help federal immigration authorities do their jobs, striking down a challenge to a law sponsored by radical State Senator Kevin de León.

Oddly, the defendants argued states’ rights in fighting the administration’s lawsuit.

In upholding California’s side in these cases, particularly the case of de León’s anti-American law, the court is departing from the position it took when Arizona passed a law requiring police to check the immigration status of anyone with whom they had lawful contact. In that case, [the court sided](#) with Obama administration and struck down Arizona’s attempt to deter illegal immigration.

For the Ninth Circuit then, the federal government’s authority to enforce immigration law, or a state’s authority to ignore that law, depends upon who is president.





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