



Written by [R. Cort Kirkwood](#) on December 15, 2011

Supreme Court to Settle Obama Fight With Arizona Over Illegal Immigration

In April, the U.S. Supreme Court will decide whether Arizona has the right to act against illegal immigration if the federal government will not.



The court will hear Arizona's appeal of the federal [Ninth Circuit Court's decision](#) to strike down the state's tough immigration law, which inspired the Obama administration and leftist organizations and individuals to attack Arizona publicly, calling its lawmakers and residents racist.



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If the court decides against Arizona, it will set back immigration reform efforts in several other states, such as Alabama, which have also said illegal aliens are bankrupting state treasuries.

The Case

Arizona is appealing a decision on [SB 1070](#) from the left-leaning [Ninth Circuit](#), which knocked down the law, the first of its kind in the nation. A key provision required police, upon reasonable suspicion of the presence of an illegal immigrant, to check the immigration status of anyone they lawfully stop or encounter.

Beyond that, [the bill covered](#) the gamut of problems associated with illegal immigration. It stopped the creation of sanctuaries within the state and punished employers who hire illegals. It also prohibited employers from stopping vehicles to pick up illegals for work. Essentially, the bill required police and state and municipal agencies to assist in enforcing immigration law.

The White House and others on the left were enraged. The President and his lawyers sued, insisting that SB 1070 is essentially racist and unfair. The administration also claimed that Arizona's law trespassed federal prerogatives on immigration, and threatened the conduct of American foreign policy. The [Ninth Circuit agreed](#). The court stressed that foreign governments opposed the law, which it said in turn impeded the federal government's conduct of foreign policy.

The [Administration](#) will repeat these arguments at the Supreme Court.

Arizona's Case

For its part, Arizona will [also repeat](#) its arguments, key among them that Congress expects the states to enhance federal immigration control efforts and indeed enforce immigration law, and as well that the federal government has abdicated its duty to defend the border. This, [Arizona has argued](#), means that the state and its taxpayers are left to suffer the depredations of unlawful immigrants and the massive tax burden which they impose. Illegals cost the state about \$2.6 billion, the [Federation for American](#)



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[Immigration Reform](#) estimates.

So Arizona argued its case on not only legal but also practical grounds. As its [brief](#) said,

It is widely recognized that the federal immigration laws are not adequately enforced; the President himself has described the federal immigration system as “broken.”

This broken system leaves the people and government of Arizona to bear a disproportionate share of the burden of a national problem. The Arizona border is so porous that an estimated 50% of illegal aliens entering the United States come through the State. Its status as a conduit for human and drug smuggling has rendered large areas of southern Arizona highly dangerous. Significant swaths of public lands have become so dangerous that National Park rangers have been forced to patrol with M-16 carbines and public access is forbidden or sternly discouraged. Strongly-worded warning signs are posted as far as 80 miles from the border and only 30 miles from the city of Phoenix. Police officers in the border town of Nogales, Arizona have received death threats from Mexican drug cartels. Private ranchers living near the border constantly face the problems and safety risks associated with a steady flow of illegal crossings of their land.

Approximately six percent of Arizona’s total inhabitants — an estimated 400,000 individuals — are aliens who are unlawfully present and not authorized to work. Nonetheless, over half — 230,000 engage in work, composing 7.4% of all Arizona workers.

Moreover, the Arizona Department of Corrections has estimated that criminal aliens now make up more than 17% of Arizona’s prison population, and the Maricopa County Attorney’s Office notes that 21.8% of the felony defendants in the Maricopa County Superior Court are illegal aliens. Arizona spends several hundred million dollars each year incarcerating criminal aliens and providing education and health care to aliens who entered and reside in the country in violation of federal law.

The [brief](#) also cites Judge Carlos Bea’s dissent from the Ninth Circuit’s decision. [Bea said](#) Congress fully expected the states to cooperate with federal immigration control efforts, given the many laws it had passed requiring states to do so.

Bea also attacked the notion that foreign governments are entitled to some sort of vote about American law, and that U.S. courts should listen to the opinions of foreign countries in cases involving American law. Were such a common practice, he wrote, foreign countries would exercise a “heckler’s veto” over American law.

Brewer Gratified

[Arizona Gov. Jan Brewer](#) said she is gratified the Supreme Court accepted the case, adding:

This case is not just about Arizona. It’s about every state grappling with the costs of illegal immigration.

And it’s about the fundamental principle of federalism, under which these states have a right to defend their people. Beyond the obvious safety issues, the fiscal burdens imposed upon Arizona by illegal immigration are daunting. Our state spends hundreds of millions of dollars each year incarcerating criminal aliens and providing education and healthcare to individuals who entered and reside in this country in violation of our laws.

Explaining that she “signed SB 1070 in order to give our state and local law enforcement one more tool with which to combat illegal immigration, while acting in concert with federal law and the U.S.



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Constitution,” [Brewer said](#) she knows that Arizona must respect federal authority over immigration law. [The Governor](#) related that she was “stunned at the audacity of the Obama administration to file suit against an individual state seeking to safeguard its people. That shock turned to outrage as the federal government proceeded to file suit against three more states — South Carolina, Alabama and now Utah — that followed Arizona’s lead.” She continued,

Arizona has been more than patient waiting for Washington to secure the border. Decades of federal inaction and misguided policy have created a dangerous and unacceptable situation, and states deserve clarity from the Court in terms of what role they have in fighting illegal immigration. I’m pleased this nationally important issue will be resolved by the highest court in the land.

Obama Hints Arizona is Racist

For his part, President Obama has repeatedly [attacked](#) the Grand Canyon State. During an appearance with Mexican President Felipe Calderón at the White House, [Obama agreed](#) with him that the law would discriminate against “Latinos,” as they are called, because of their skin color.

“In the United States of America, no law-abiding person, be they an American citizen, a legal immigrant or a visitor or tourist from Mexico, should ever be subject to suspicion simply because of what they look like,” Obama declared.

[Calderón](#) insisted that the United States should not “criminalize migration” and called the law “discriminatory.”

[Obama](#) also claimed that SB 1070 would encourage racial profiling, and [even reported](#) the law to the United Nations as a possible human rights violation. He and his legal advisors have used the same arguments against other states, most notably Alabama. And the administration’s allies have said the same, claiming that Alabama is returning to its bad old days and erecting a system of “[Juan Crow](#).”

In Alabama’s case, the left did not succeed. A federal judge [upheld key provisions](#) of the law, [HB 56](#), citing Bea’s dissent in the Arizona case. Bea, again, opined that Congress did expect states to cooperate in immigration control, and that foreign governments do not have veto authority over American law.

Importantly, the judge in Alabama’s case [upheld the provision](#) of HB 56 which requires police to check the immigration status, upon reasonable suspicion of illegal presence, of those they arrest or otherwise lawfully encounter.



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