

JUDGE BOLTON ENJOINS ARIZONA IMMIGRATION LAW

I am at the downtown court complex in Phoenix this morning for other matters but have obtained a copy of Judge Bolton's decision in United States of America v. State of Arizona, the most significant of the multiple litigations against the controversial Arizona Immigration law, known as SB 1070. In a nutshell, the most critical and important parts of the law have all been enjoined – i.e. have been stayed pending further litigation.

The [full written decision is here](#).

The summary, as written by Judge Bolton, is:

Applying the proper legal standards based upon well-established precedent, the Court finds that the United States is likely to succeed on the merits in showing that the following Sections of S.B. 1070 are preempted by federal law:

Portion of Section 2 of S.B. 1070 – A.R.S. § 11-1051(B): requiring that an officer make a reasonable attempt to determine the immigration status of a person stopped, detained or arrested if there is a reasonable suspicion that the person is unlawfully present in the United States, and requiring verification of the immigration status of any person arrested prior to releasing that person

Section 3 of S.B. 1070 – A.R.S. § 13-1509: creating a crime for the failure to apply for or carry alien registration papers

Portion of Section 5 of S.B. 1070 – A.R.S. § 13-2928(C): creating a crime for an unauthorized alien to solicit,

apply for, or perform work

Section 6 of S.B. 1070 – A.R.S. § 13-3883(A)(5): authorizing the warrantless arrest of a person where there is probable cause to believe the person has committed a public offense that makes the person removable from the United States

The Court also finds that the United States is likely to suffer irreparable harm if the Court does not preliminarily enjoin enforcement of these Sections of S.B. 1070 and that the balance of equities tips in the United States' favor considering the public interest. The Court therefore issues a preliminary injunction enjoining the enforcement of the portion of Section 2 creating A.R.S. § 11-1051(B), Section 3 creating A.R.S. § 13-1509, the portion of Section 5 creating A.R.S. § 13-2928(C), and Section 6 creating A.R.S. § 13-3883(A)(5).

The decision is very well taken and written. It should be noted that this is not a final decision on the merits, but only a ruling on questions of preliminary injunction on enforcement of the law. While Bolton has not enjoined the entire law, what she has done effectively guts any ability of the State of Arizona and its law enforcement agents to utilize the statute for the purpose intended.

I will also note that I have known and had experience with Judge Bolton for the better part of two decades going back to her term as a Maricopa County Superior Court judge; she is bright and not a wild card in the least; reserved although not conservative. She writes sound decisions and is not prone to being overruled. For these reasons, and from a quick reading of her analysis here, I think she is on very solid ground and this decision bodes well for the future, both in the 9th Circuit and

Supreme Court. Again, however, although this is a very good read as to where Judge Bolton will go in her final decision, there is still formal litigation on the merits to follow prior to reaching the appellate levels.

All in all a good day here at the Sandra Day O'Connor Federal Courthouse in Phoenix Arizona.