

Scalia Cites Obama Immigration Policy in Dissent on Arizona Law

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Highlight: Justice Antonin Scalia made a foray into the realm of political combat on Monday, citing President Obama's recent decision to stop enforcement of deportation against some illegal immigrants in a statement of dissent from his colleagues who struck down parts of Arizona's immigration law.

Body

3:32 p.m. | Updated Justice Antonin Scalia made a foray into the realm of political combat on Monday, citing President Obama's recent decision to stop enforcement of deportation against some illegal immigrants in a biting statement of dissent (a summary of which can be found here) from his colleagues who struck down parts of Arizona's immigration law.

Diving into a discussion of current events, Justice Scalia said the president's enforcement action called into question the majority's decision that Arizona's immigration statutes contradict federal law. He said Arizona was justified in pursuing its own efforts to protect its borders because "federal officials have been unable to remedy the problem, and indeed have recently shown that they are simply unwilling to do so."

"The president has said that the new program is 'the right thing to do' in light of Congress's failure to pass the Administration's proposed revision of the immigration laws," he wrote. "Perhaps it is, though Arizona may not think so. But to say, as the Court does, that Arizona contradicts federal law by enforcing applications of federal immigration law that the President declines to enforce boggles the mind."

Issuing bench statements along with opinions is not particularly rare. But the idea of a justice citing current events that occurred after a case was argued is not an everyday occurrence.

In this case, Justice Scalia was explicit about the timing.

"After this case was argued and while it was under consideration, the secretary of Homeland Security announced a program exempting from immigration enforcement some 1.4 million illegal immigrants," Justice Scalia said.

Some critics pointed out that Justice Scalia asserted that the president's new enforcement policy would affect "1.4 million illegal immigrants." In fact, the government estimates that the policy would stop deportations affecting about 800,000 immigrants.

[A Summary of Justice Scalia's Bench Statement](#)

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