

IMMIGRATION ISN'T AN ISSUE FOR THE STATES

Tampa Bay Times

April 25, 2012 Wednesday, 4 State / Suncoast Edition

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Section: NATIONAL; Pg. 10A; TIMES EDITORIALS

Length: 543 words

Body

The scapegoating of illegal immigrants by state legislatures in Florida and elsewhere would be quieted if the U.S. Supreme Court ruled that Arizona's controversial immigration law intrudes on federal authority. Only the federal government has the power to dictate foreign affairs and immigration policy. But states have been elbowing in, passing draconian laws against illegal immigrants that encourage police to racially profile. The high court hears arguments today that Arizona's law treads upon federal power, and the court should side with the Obama administration by blocking state efforts to interfere with federal policies on immigration.

The Florida Legislature was more focused on redistricting this session, but in 2011 it grappled with Arizona-style bills before dropping the issue for the time being. Gov. Rick Scott made a campaign pledge to bring an anti-immigration law like Arizona's to Florida, and the issue is a centerpiece cause for tea party activists. Whether the pernicious issue will reappear with added momentum depends on what happens in Arizona vs. United States. The challenge focuses on key parts of the 2010 Arizona law, which transforms local law enforcement into immigration police to scare illegal immigrants into leaving the state.

Arizona claims it has the right to legislate in areas that don't directly conflict with federal law, including anti-immigration matters. Florida Attorney General Pam Bondi signed on to an amicus brief with 15 other states, supporting Arizona's claims. Meanwhile 11 states filed a brief on the federal government's side declaring immigration enforcement the province of federal authorities.

Arizona's law directs police to determine the citizenship status of anyone stopped or arrested if there is a reasonable suspicion they are illegal immigrants; makes it a state crime for those without legal documents to work or seek work; and requires noncitizens to always carry documents proving their legal status or face criminal charges. The 9th U.S. Circuit Court of Appeals set aside these provisions on federal pre-emption grounds. If the Supreme Court stands with precedent, it will affirm the appellate court.

While civil rights issues are not before the court, Arizona's law and copycat measures in other states have had a significant impact on Hispanic communities, whose members are most at risk for having law enforcement treat their skin color and language skills alone as evidence of criminal conduct. Families have moved away; vibrant immigrant business communities have emptied out. In farm states such as Georgia, farmers have found it difficult to employ the temporary labor needed to get their crops harvested.

But what the justices will be focusing on is whether federal immigration law already covers enforcement in a way that bars states from enacting their own rules. The Constitution's supremacy clause tells states that their laws are

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subordinate to federal law. Because foreign policy and immigration are uniquely federal functions, states should not be free to be more punitive than federal law. The eight justices to consider the case (Justice Elena Kagan is recused) should set Arizona's law aside. If they don't, expect Florida to become the next battleground over immigration.

Classification

Language: ENGLISH

Document-Type: EDITORIAL

Publication-Type: Newspaper

Subject: IMMIGRATION (95%); US STATE IMMIGRATION LAW (90%); ILLEGAL IMMIGRANTS (90%); CITIZENSHIP (90%); US FEDERAL GOVERNMENT (90%); PUBLIC POLICY (90%); ARIZONA IMMIGRATION LAW (90%); LEGISLATIVE BODIES (90%); SUITS & CLAIMS (90%); IMMIGRATION LAW (90%); US STATE GOVERNMENT (90%); LAW COURTS & TRIBUNALS (89%); APPEALS (89%); APPELLATE DECISIONS (89%); LAW ENFORCEMENT (89%); SUPREME COURTS (89%); FEDERAL INVESTIGATIONS (89%); RACE & ETHNICITY (78%); DECISIONS & RULINGS (78%); CITIZENSHIP LAW (78%); ARRESTS (78%); REDISTRICTING (78%); LITIGATION (78%); CRIMINAL OFFENSES (78%); APPEALS COURTS (78%); POLITICAL PARTIES (77%); FOREIGN POLICY (77%); SPECIAL INVESTIGATIVE FORCES (77%); CIVIL RIGHTS (76%); HISPANIC AMERICANS (73%); ATTORNEYS GENERAL (73%); TEA PARTY MOVEMENT (72%); MISCONDUCT (64%); TEMPORARY EMPLOYMENT (62%); INTERNATIONAL RELATIONS (50%)

Organization: SUPREME COURT OF THE UNITED STATES (84%)

Person: RICK SCOTT (58%); BARACK OBAMA (55%)

Geographic: ARIZONA, USA (97%); FLORIDA, USA (94%); UNITED STATES (93%)

Load-Date: April 25, 2012