Judge Issues Restraining Order Prohibiting Prop. 187

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Highlight: A federal judge in California said most of what was included in ***Proposition 187*** would be found unconstitutional and issued a ***restraining order*** to ***block*** it. Four lawsuits are challenging the new California law.

Body

BOB EDWARDS, Host: A federal judge in California has issued a temporary ***restraining order*** prohibiting most of ***Proposition 187***, the state's new immigration law, from taking effect. The judge said that most of ***Proposition 187*** would be found unconstitutional. The new law, adopted overwhelmingly by California voters last week, would deny publicly funded education, non-emergency health and social services, to illegal immigrants. Yesterday's court action was in response to four lawsuits challenging the new law. NPR's Ina Jaffe reports.

INA JAFFE, Reporter: Attorneys challenging the law argued that ***Proposition 187*** was flawed in two ways. First, they said, it pre-empts the federal government's authority to make immigration law. For example, ***Proposition 187*** defines illegal immigrant differently than the federal government does, and it would deny services to some people who are allowed to receive them under federal law.
Outside the courthouse, attorney Peter Shay [sp], representing LULAC, the League of United Latin American Citizens, repeated the argument that ***187*** effectively deputizes teachers, police officers, social workers, and others, as immigration officials, requiring them to tell suspected illegal immigrants that they should leave the country.

PETER SHAY, Attorney Representing League of United Latin American Citizens: Even though those immigrants went to the Immigration Service, the Immigration Department would not tell them to leave the country. ***Proposition 187*** makes ineligible for health care various categories of immigrants who Congress have- has stated are eligible for health care services. ***Proposition 187*** would make several categories of children ineligible for emergency foster care, children who are battered by their parents, children whose parents are killed. So, there were many, many respects in which I believe the court found, and believed, that ***Proposition 187*** conflicted with, and would frustrate, federal law.

JAFFE: The second point made by the challengers was that by withdrawing services from undocumented immigrants without a hearing, ***Proposition 187*** denied them their right to due process, and Federal District Judge Matthew Byrne seemed to agree. But, when it was the state's turn to argue, Deputy Attorney General John Ichinaga didn't make a sweeping constitutional defense of the statute; rather he simply said that a temporary ***restraining order*** was unnecessary.

Most of the provisions of **_187_** won't go into effect for a few weeks, he explained, while the state finishes drafting the regulations for enforcing it. Ichinaga suggested those regulations, when they are completed, might take care of some of the judge's concerns. 'Do you know what will be in those regulations?' asked the judge. 'No,' said Ichinaga. 'Well, if you can't speculate,' said the judge, 'why should I?'

Mark Rosenbaum [sp], an attorney for the American Civil Liberties Union, accused California's attorney general of planning to use the regulations to cover up the deficiencies of the law.

MARK ROSENBAUM, Attorney, American Civil Liberties Union: It's like giving a facelift to Frankenstein to try to turn him into Mother Teresa, and that's not gonna work. This law is done, there is nothing they can do to cure this law, and the regulation process itself is an admission that they have a law that constitutionally doesn't work.

JAFFE: This was the second time since **_Proposition 187_** was passed that a court has **_blocked_** its implementation. Last week a state court issued a **_restraining order_** to prevent undocumented students from being expelled from school. So, a spokesman for California Attorney General Dan Lungren said that yesterday's temporary **_restraining order_** was disappointing, but, not unexpected. And there are two sections of **_Proposition 187_** that Judge Byrne allowed to stand; those established criminal penalties for making or using fraudulent immigration documents, already felonies under federal law.

There will be further hearings next week to determine whether yesterday's prohibition on enforcing **_187_** will be extended until the trials are over, but, all the parties agree that the issue will ultimately have to be decided by the Supreme Court, which will undoubtedly take years. I'm Ina Jaffe in Los Angeles.

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