

## **Court voids Hazleton law**

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### **Body**

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In a decision raptly watched across the country, a federal judge yesterday threw out **Hazleton**'s ordinance designed to crack down on undocumented aliens.

Supporters of the decision said the broadly worded ruling was likely to freeze attempts by scores of municipalities to enact their own immigration policy. Opponents said there were strong grounds for appeal. U.S. District Judge James Munley of Scranton found the first-of-its-kind ordinance, which sought to penalize businesses that hire illegal immigrants and landlords who rent to them, was unconstitutional because immigration policy is the purview strictly of the federal government.

Munley said **Hazleton**'s action was preempted by federal **law** and violated the plaintiffs' due-process rights.

"The genius of our Constitution is that it provides rights even to those who evoke the least sympathy from the general public. In that way, all in this nation can be confident of equal justice under its **laws**," Munley wrote. "**Hazleton**, in its zeal to control the presence of a group deemed undesirable, violated the rights of such people. . . ."

The executive director of the American Civil Liberties Union, which represented the 11 plaintiffs in the case, said the ruling sent a "clear message" to scores of other municipalities with **laws** on the books - and others considering them - that such ordinances overstepped jurisdictional bounds.

"We are thrilled at this ruling," Anthony Romero said in a conference call yesterday. "It is a categorical rejection of the **Hazleton** ordinance that promoted discrimination."

More than 100 municipalities, including Riverside, Burlington County, have passed similar ordinances since **Hazleton**'s was approved last July. None have yet gone into effect, in large part because of the pending **Hazleton** ruling, according to the ACLU.

Lou Barletta, the popular mayor of **Hazleton**, a city of 30,000 located 90 miles northwest of Philadelphia, said yesterday afternoon that he had yet to read the full opinion but that he would appeal to the U.S. **Court** of Appeals for the Third Circuit.

"Both sides knew this would not be the last day. Both sides pledged to go the distance," said Barletta, whose cause has received wide support and financial donations from anti-immigration groups. "As Abraham Lincoln once said, this 'is a slip and not a fall.' "

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**Hazleton's** Illegal Immigration Relief Act was championed by Barletta as a way to stem the tide of illegal immigrants flowing into this struggling former coal-mining city. He and other officials blamed the immigrants for rising crime and a declining economy.

Barletta said that after watching the quality of life in his city erode, he decided to take action when two illegal immigrants were charged in the fatal shooting of a pedestrian.

The **Hazleton** ordinance quickly became a flash point in the growing debate over the nation's ability to curb illegal immigrants and encouraged scores of other municipalities with large immigrant populations to enact similar **laws**.

The ACLU, on behalf of 11 plaintiffs, including four undocumented aliens who went by aliases, challenged the **Hazleton** ordinance, saying the city had used the Hispanic community as "scapegoats" for its problems.

The ordinance was never implemented, however, because Munley issued a temporary order blocking its enforcement.

Yesterday's ruling - which came four months after the nine-day trial had concluded - was the first addressing local immigration **laws** to be issued by a federal **court**.

"This decision should be a blaring red spotlight for local officials thinking of copying **Hazleton's** misguided and unconstitutional **law**," said Witold Walczak, legal director of the ACLU of Pennsylvania.

But Kris Kobach, an attorney for **Hazleton** and a University of Missouri-Kansas City **law** professor, said he felt there were strong grounds for an appeal.

"This was the paradigm of judicial activism," Kobach said, asserting it was clear to him the judge had "bent over backwards" to agree with the plaintiffs.

Still, Peter J. Spiro, a **law** professor at Temple University's Beasley School of **Law**, called the decision a "knockout for the plaintiffs."

"They couldn't ask for anything more," he said.

Even so, Spiro said it would not surprise him if an appeals **court** modified or even reversed the ruling.

"A lot of this is uncharted territory," he said. "In the context of failed immigration reform, an appeals **court** might be more amenable to upholding this sort of local **law** than the district **court** was."

Rudy Espinal, a plaintiff and head of **Hazleton's** Hispanic Business Association, said he hoped the outcome would restore a sense of normalcy to his community. The ordinance "brought an incredible amount of division and turned the town upside down," he said.

## Excerpts From the Ruling

**The United States Congress** has provided complete and thorough regulations with regard to the employment of unauthorized aliens including anti-immigration discrimination provisions. Allowing States or local governments to legislate with regard to the employment of unauthorized aliens would interfere with Congressional objectives. . . .

**Defendant seems to argue** that the **law** is constitutional because it is aimed at illegal aliens who have no right to be in the United States. Defendant's position fails to acknowledge that the **law** will affect more than illegal aliens. It will affect every employer, every employee who is challenged as an illegal alien and every prospective employee especially those who look or act as if they are foreign. . . .

**Hazleton's ordinances** burden aliens more than federal **law** by prohibiting them from residing in the city although they may be permitted to remain in the United States. The ordinances are thus in conflict with federal **law** and pre-empted. . . .

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**Whatever frustrations** officials of the City of **Hazleton** may feel about the current state of federal immigration enforcement, the nature of the political system in the United States prohibits the City from enacting ordinances that disrupt a carefully drawn federal statutory scheme. Even if federal **law** did not conflict with **Hazleton**'s measures, the City could not enact an ordinance that violates rights the Constitution guarantees to every person in the United States, whether legal resident or not.

SOURCE: Associated Press

To read Judge James Munley's ruling, go to <http://go.philly.com/munley>

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