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A Border Watcher Finds Himself Under Scrutiny

By RANDAL C. ARCHIBOLD

For years, Roger Barnett has holstered a pistol to his hip, tucked an assault rifle in his truck and set out over the scrub brush on his thousands of acres of ranchland near the Mexican border in southeastern Arizona to hunt.

Hunt illegal immigrants, that is, often chronicled in the news.

“They’re flooding across, invading the place,” Mr. Barnett told the ABC program “Nightline” this spring. “They’re going to bring their families, their wives, and they’re going to bring their kids. We don’t need them.”

But now, after boasting of having captured 12,000 illegal crossers on land he owns or leases from the state and emerging as one of the earliest and most prominent of the self-appointed border watchers, Mr. Barnett finds himself the prey.

Immigrant rights groups have filed lawsuits, accusing him of harassing and unlawfully imprisoning people he has confronted on his ranch near Douglas. One suit pending in federal court accuses him, his wife and his brother of pointing guns at 16 illegal immigrants they intercepted, threatening them with dogs and kicking one woman in the group.

Another suit, accusing Mr. Barnett of threatening two Mexican-American hunters and three young children with an assault rifle and insulting them with racial epithets, ended Wednesday night in Bisbee with a jury awarding the hunters \$98,750 in damages.

The court actions are the latest example of attempts by immigrant rights groups to curb armed border-monitoring groups by going after their money, if not their guns. They have won civil judgments in Texas, and this year two illegal Salvadoran immigrants who had been held against their will took possession of a 70-acre ranch in southern Arizona after winning a case last year.

The Salvadorans had accused the property owner, Casey Nethercott, a former leader of the Ranch Rescue group, of menacing them with a gun in 2003. Mr. Nethercott was convicted of illegal gun possession; the Salvadorans plan to sell the property, their lawyer has said.

But Mr. Barnett, known for dressing in military garb and caps with insignia resembling the United States Border Patrol's, represents a special prize to the immigrant rights groups. He is ubiquitous on Web sites, mailings and brochures put out by groups monitoring the Mexican border and, with family members, was an inspiration for efforts like the Minutemen civilian border patrols.

"The Barnetts, probably more than any people in this country, are responsible for the vigilante movement as it now exists," said Mark Potok, legal director of the Southern Poverty Law Center, which tracks the groups. "They were the recipients of so much press coverage and they kept boasting, and it was out of those boasts that the modern vigilante movement sprang up."

Jesus Romo Vejar, the lawyer for the hunting party, said their court victory Wednesday would serve notice that mistreating immigrants would not pass unpunished. Although the hunters were not in the United States illegally, they contended that Mr. Barnett's treatment of them reflected his attitude and practices toward Latinos crossing his land, no matter what their legal status.

"We have really, truly breached their defense," Mr. Vejar said, "and this opens up the Barnetts to other attorneys to come in and sue him whenever he does some wrong with people."

Mr. Vejar said he would ask the state attorney general and the county attorney, who had cited a lack of evidence in declining to prosecute Mr. Barnett, to take another look at the case. He also said he would ask the state to revoke Mr. Barnett's leases on its land.

Mr. Barnett had denied threatening anyone. He left the courtroom after the verdict without commenting, and his lawyer, John Kelliher, would not comment either.

In a brief interview during a court break last week, Mr. Barnett denied harming anyone and said that the legal action would not deter his efforts. He said that the number of illegal immigrants crossing his land had declined recently but that he thought it was only a temporary trend.

"For your children, for our future, that's why we need to stop them," Mr. Barnett said. "If we don't step in for your children, I don't know who is expected to step in."

Mr. Barnett prevailed in a suit in the summer when a jury ruled against a fellow rancher who had sued, accusing him of trespassing on his property as he pursued immigrants. Another suit last year was dropped when the plaintiff, who had returned to Mexico, decided not to return to press the case.

Still, the threat of liability has discouraged ranchers from allowing the more militant civilian patrol groups on their land, and accusations of abuse seem to be on the wane, said Jennifer Allen of the Border Action Network, an immigrant rights group.

But David H. Urias, a lawyer with the Mexican American Legal Defense Fund who is representing the 16 immigrants suing Mr. Barnett, said fewer complaints did not necessarily mean less activity. Immigrants from Mexico are returned to their country often within hours and often under the impression that their deportation — and chance to try to return again — will go quicker without their complaints.

“It took us months to find these 16 people,” Mr. Urias said.

People who tend ranches on the border said that even if they did not agree with Mr. Barnett’s tactics they sympathized with his rationale, and that putting him out of business would not resolve the problems they believe the crossers cause.

“The illegals think they have carte blanche on his ranch,” said Al Garza, the executive director of the Minuteman Civil Defense Corps in Arizona, a civilian patrol group that, Mr. Garza says, does not detain illegal immigrants but calls in their movements to the Border Patrol. “The man has had it.”

Mr. Barnett, a retired Cochise County sheriff’s deputy and the owner of a towing business, acquired his ranch in the mid-1990s, buying or leasing from the state more than 22,000 acres.

Almost from the start he took up a campaign against the people crossing the border from Mexico, sometimes detaining large groups and radioing for the Border Patrol to pick them up.

Chuy Rodriguez, a spokesman for the agency’s Tucson office, said the Border Patrol maintained no formal relationship with Mr. Barnett or other civilian groups. Agency commanders, concerned about potential altercations, have warned the groups not to take the law into their hands.

“If they see something, we ask them to call us, like we would ask of any citizen,” Mr. Rodriguez said.

Mr. Barnett’s lawyers have suggested he has acted out of a right to protect his property.

“A lease holder doesn’t have the right to protect his cattle?” Mr. Kelliher asked one of the men in the hunting party, Arturo Morales, at the trial.

“I guess so, maybe,” Mr. Morales replied.

Mr. Barnett has had several encounters with local law enforcement officials over detaining illegal immigrants, some of whom complained that he pointed guns at them. The local authorities have declined to prosecute him, citing a lack of evidence or ambiguity about whether he had violated any laws.

A few years ago, however, the Border Action Network and its allied groups began collecting testimony from illegal immigrants and others who had had confrontations with Mr. Barnett.

They included the hunters, who sued Mr. Barnett for unlawful detention, emotional distress and other claims, and sought at least \$200,000. Ronald Morales; his father, Arturo; Ronald Morales's two daughters, ages 9 and 11; and an 11-year-old friend said Mr. Barnett, his brother Donald and his wife, Barbara, confronted them Oct. 30, 2004.

Ronald Morales testified that Mr. Barnett used expletives and ethnically derogatory remarks as he sought to kick them off state-owned property he leases. Then, Mr. Morales said, Mr. Barnett pulled an AR-15 assault rifle from his truck and pointed it at them as they drove off, traumatizing the girls.

Mr. Kelliher conceded that there was a heated confrontation. But he denied that Mr. Barnett used slurs and said Ronald Morales was as much an instigator. He said Morales family members had previously trespassed on Mr. Barnett's land and knew that Mr. Barnett required written permission to hunt there.

Even as the trial proceeded, the Border Patrol reported a 45 percent drop in arrests in the Douglas area in the last year. The agency credits scores of new agents, the National Guard deployment there this summer and improved technology in detecting crossers.

But Ms. Allen of the Border Action Network and other immigrant rights supporters suspect that people are simply crossing elsewhere.