

Court Orders a New Delay on Illegal Worker Rules

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By JULIA PRESTON

A federal judge in San Francisco yesterday extended for 10 days a temporary ban on a central measure in the Bush administration's campaign to crack down on employers who hire illegal immigrants.

After a two-hour hearing, the judge, Charles R. Breyer of Federal District Court, strongly suggested that he was leaning against the government in the case.

The ban further delayed the start of a rule, which establishes steps an employer must follow after receiving a notice from the Social Security Administration, known as a no-match letter, reporting that an employee's identity information does not match the agency's records. According to the rule, originally scheduled to take effect Sept. 14, if the employee cannot clarify the mismatch within 90 days, the employer would be required to fire the worker or risk prosecution for knowingly hiring illegal immigrants. Those immigrants often provide false Social Security numbers when applying for jobs.

In an Aug. 31 decision, Judge Maxine M. Chesney, also of the San Francisco court, delayed the rule from taking effect before yesterday's hearing and barred the Social Security Administration from sending out about 141,000 no-match letters, covering 8.7 million employees, which include notices from the Department of Homeland Security about the rule.

"It is clear to me at this point there would be irreparable harm to the plaintiffs," Judge Breyer commented at the end of the hearing, rejecting the government's main argument. "It just seems to me looking at it that this is a potentially enormous burden on the employer," the judge said, adding that he would issue a ruling within 10 days.

The suit was brought by the American Civil Liberties Union, the A.F.L.-C.I.O. and several San Francisco labor organizations. They were joined by the United States Chamber of Commerce and several national small business associations.

In court documents, the business groups argued that the impact of the rule in terms of hiring and training office workers to comply with the new procedures and deadlines, and firing employees whose discrepancies were not resolved in time, would be "substantial, immediate and irreparable."

The labor organizations said that Social Security's records contained many errors that could lead to legal workers, including American citizens, being unjustly fired under the new rule.

The government countered that the rule did not represent any departure from current immigration laws or impose any new burdens on employers, but was designed to help employers by clarifying past confusion about what they had to do to comply with the law.

Carolyn Marshall contributed reporting.