

In Reversal, Courts Uphold Local Immigration Laws

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After groups challenging state and local laws cracking down on illegal immigration won a series of high-profile legal victories last year, the tide has shifted as federal judges recently handed down several equally significant decisions upholding those laws.

On Thursday, a federal judge in Arizona ruled against a lawsuit by construction contractors and immigrant organizations who sought to halt a state law that went into effect on Jan. 1 imposing severe penalties on employers who knowingly hire illegal immigrants. The judge, Neil V. Wake of Federal District Court, methodically rejected all of the contractors' arguments that the Arizona law invaded legal territory belonging exclusively to the federal government.

On Jan. 31, a federal judge in Missouri, E. Richard Webber, issued a similarly broad and even more forcefully worded decision in favor of an ordinance aimed at employers of illegal immigrants adopted by Valley Park, Mo., a city on the outskirts of St. Louis.

And, in an even more sweeping ruling in December, a judge in Oklahoma, James H. Payne, threw out a lawsuit against a state statute enacted last year requiring state contractors to verify new employees' immigration status. Judge Payne said the immigrants should not be able to bring their claims to court because they were living in the country in violation of the law.

These rulings were a sharp change of tack from a decision in July by a federal judge in Pennsylvania who struck down ordinances adopted by the City of Hazleton barring local employers from hiring illegal immigrants and local landlords from renting to them. In that case, the judge, James M. Munley of Federal District Court, found that the Hazleton laws not only interfered with federal law, but also violated the due process rights of employers and landlords, and illegal immigrants as well.

Hazleton was the first city to adopt ordinances to combat illegal immigration, laws that the mayor, Louis J. Barletta, said would make it "one of the toughest places in the United States" for illegal immigrants. After the Hazleton decision, many cities and towns that had been considering similar statutes against employers and landlords dropped the effort, fearing legal challenges that they would be likely to lose.

The recent federal decisions will probably give new encouragement to states and towns seeking to drive out illegal immigrants by making it difficult for them to find jobs or places to live.

“These are not equivocal decisions,” said Kris W. Kobach, a law professor at the University of Missouri, Kansas City, who was the lead lawyer in the Valley Park case and assisted in the Arizona case. “Both judges gave sweeping victories to the cities and states involved,” said Mr. Kobach, who was also one of the leading lawyers representing Hazleton.

In another earlier, much-watched case, the City of Escondido, Calif., in December 2006 dropped an anti-illegal immigrant housing ordinance and agreed to pay \$90,000 in lawyers’ fees to the landlords and illegal immigrants who brought a lawsuit.

By contrast, in the Valley Park decision, Judge Webber wrote that the residents challenging the statutes had failed to “create a genuine issue of material fact on any of the allegations.” He wrote that the city’s employer ordinance “is not pre-empted by federal law.”

That decision was especially notable because earlier versions of the Valley Park ordinances had been struck down in state court. After the state decision, the city dropped its statutes barring illegal immigrants from renting housing, turning to federal court only to defend its sanctions on employers.

Judge Payne of Oklahoma, ruling Dec. 12 on state laws that took effect in November, went furthest in questioning the rights of illegal immigrants.

“These illegal alien plaintiffs seek nothing more than to use this court as a vehicle for their continued unlawful presence in this country,” he wrote. “To allow these plaintiffs to do so would make this court an ‘abettor of iniquity,’ and this court finds that simply unpalatable.”

In Arizona and Missouri, groups challenging the laws have said they will seek new injunctions or appeal; the Hazleton decision is currently under appeal.

Lawyers fighting the local statutes said these were creating a nationwide checkerboard of conflicting laws, and have generated discrimination against Hispanics who are not illegal immigrants. As of November, 1,562 bills dealing with immigration were introduced in state legislatures in 2007 and 244 became law, according to the National Conference of State Legislatures.

“What certain states and communities are doing is taking matters into their own hands that should be dealt with on a national level in a consistent manner,” said Ricardo Meza, a lawyer in Chicago for the Mexican American Legal Defense and Educational Fund, which brought the Valley Park case. “Where we see the big danger with these laws is that they put a bulls-eye on every Hispanic’s forehead.”

Michael A. Olivas, a University of Houston law professor, said the recent litigation showed the need for Congress to clarify the situation of illegal immigrants. “We lost the big enchilada, which was federal immigration reform that would have trumped all these matters,” he said.