

September 6, 2012

Arizona Immigration Law Survives Ruling

By [FERNANDA SANTOS](#)

TUCSON — A decision by a federal judge on Wednesday paved the way for the most controversial section of Arizona’s sweeping [immigration](#) legislation, requiring the authorities to verify the status of people who they suspect are in the country illegally, to finally take effect.

In denying a request by a coalition of civil rights groups to bar the provision, commonly referred to as “show me your papers,” Judge Susan Bolton of United States District Court in Phoenix adopted the same wait-and-see approach suggested by the [Supreme Court](#) in June, saying that the measure could be challenged “as interpreted and applied after it goes into effect.”

The decision, though, does not end the legal battles that have enmeshed the measure and other portions of the law for more than two years, challenging their validity and constitutionality all the way to the Supreme Court.

For law enforcement agencies that had taken a more benign approach to immigration enforcement, it poses a quandary, forcing them to balance conflicting obligations of going after illegal immigrants while keeping them on their side.

“All this does is amplify a problem that already existed,” which is establishing trust among people already reluctant to cooperate with the authorities, Sheriff Clarence W. Dupnik of Pima County said in an interview from his office here.

Hoping to validate concerns raised by the Supreme Court in its ruling, the civil rights groups presented several examples to bolster the argument that traffic stops and detentions would inevitably grow longer as a result of efforts by law enforcement officers to verify a person’s immigration status. The groups also used statements made by some state legislators — who spoke of illegal immigrants and Mexicans or, more generally, Hispanics, as one and the same — to prove that the immigration bill they passed was inherently discriminatory, a violation of the 14th Amendment’s equal-protection clause.

Judge Bolton dismissed the first contention and seemed to have ignored their other claim. She made no mention of it in her order, which ran 12 pages and quoted extensively from the Supreme Court’s ruling, as well as lower courts’ rulings on similar immigration laws challenged in other states.

She did, however, give the plaintiffs one measure of victory by ordering the state to stop enforcing an aspect of its immigration law that makes it a crime to harbor or transport illegal immigrants. She employed the same rationale used by the courts in Alabama and Georgia to block similar provisions, arguing that states cannot impose rules in areas already regulated by federal immigration laws.

Gov. Jan Brewer's staff was still weighing Thursday whether to appeal the order, but the governor still hailed Judge Bolton's ruling, saying that it put the state "one step closer to implementing the core provision" of its immigration law.

Cecillia Wang, director of the American Civil Liberties Union's Immigrants' Rights Project, which is part of the civil rights coalition, said the judge "really missed an opportunity" to prevent the types of abuses she and others have claimed are already happening in places like Maricopa County, where Sheriff Joe Arpaio and his deputies have been vigorously using other state laws to go after illegal immigrants.

Judge Bolton's order, Ms. Wang added, "puts the burden of defending constitutional rights on the victims of abuse by police and sheriff's offices in Arizona." Carlos Garcia, executive director of Puente, an advocacy group in Phoenix, said the ruling "will only expand the human rights crisis in Arizona" and the police will no longer be able to "protect and serve" Latinos, "only racially profile them."

Sheriff Dupnik said his deputies were trained to "use common sense and good judgment" before they stop, detain or question a suspect. "This law," he went on, "makes it no different."

Lawsuits by the Justice Department and a similar roster of civil rights organizations that appeared before Judge Bolton were already challenging Sheriff Arpaio's methods and intentions, saying they were intended to single out Latinos for enforcement actions.

In 2010, Judge Bolton issued a preliminary injunction against the show-me-your-papers provision. The injunction is still in place, though on Wednesday she gave the department and the State of Arizona 10 days to formally request its dismissal.

<http://www.nytimes.com/2012/09/07/us/key-element-of-arizona-immigration-law-survives-ruling.html>