

**ONE IMMIGRATION VOICE, ONE IMMIGRATION LAW:
U.S. Supreme Court strikes down majority of Arizona's illegal immigration measures**

A year after upholding Arizona's authority to sanction employers who knowingly employ unauthorized aliens in *Chamber of Commerce v. Whiting*, the U.S. Supreme Court rejected Arizona's further efforts to curtail its ongoing illegal immigration problem. In *Arizona v. United States*, a 5-3 majority headed by Justice Kennedy (and which included Chief Justice Roberts) concluded on June 25 that three of the four provisions at issue in Arizona's proposed illegal immigration law – most of which dealt with criminalizing an unauthorized alien's employment and presence in Arizona – were preempted by the Federal Government's comprehensive framework in the field of immigration.

Although the majority sympathized with the well-documented and "understandable frustrations" of illegal immigration in Arizona, it nevertheless refused to allow the State to unilaterally enforce federal (or its own) immigration law. According to the majority, American immigration policy has widespread national and foreign policy effects, and thus must be made with "one voice," not fifty. Since the Federal Government has chosen not to make it a crime for an unauthorized alien to seek employment in the United States (unlike an employer, who can be found civilly and criminally liable for employing the unauthorized alien) or to be present in the United States, and since the Federal Government has apparently decided it is the lone voice on these immigration issues, the majority barred Arizona from declaring differently.

Unsurprisingly, Justice Scalia dissented from the majority, framing the issue primarily as Arizona's unrelinquished power to exclude individuals – including unauthorized aliens – from its territory. Justice Scalia saw little difference between Arizona criminalizing a violation of federal immigration law and it criminalizing a violation of federal drug law, the latter of which is common throughout the States. For, as Justice Scalia rhetorically observes, "[i]f securing its territory in this fashion is not within the power of Arizona, we should cease referring to it as a sovereign State."

While Justice Scalia's opinion of the Obama administration's "lax" immigration enforcement is clear, his criticisms highlight what will undoubtedly be one cornerstone of the inevitable immigration debate, to which all of America will bear witness (again and again and again) as November 6 approaches. While federal immigration overhaul may be inevitable, if nothing else, *Arizona* illustrates that States are no longer waiting for Congress to try and figure things out.



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