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U.S. Supreme Court Decision in Arizona SB 1070 Case Affirms Key Part of Arizona Law, Strikes Down Others

The U.S. Supreme Court rendered a decision in the Arizona SB 1070 case that affirmed a key part of Arizona’s law and struck down others.

The Supreme Court has partially rejected the Obama administration’s position that the federal government should be the sole enforcer of the nation’s immigration laws. The court, in an opinion by Justice Anthony Kennedy, unanimously upheld the state law’s most controversial provision that requires law enforcement/police officers to check the immigration status of people they stop. Specifically, the court validated Section 2(B) requiring state and local police officers to attempt to determine the immigration status of any person stopped under state or local law if “reasonable suspicion” exists that the person is unlawfully present in the United States.

As to other parts of the Arizona law, Justice Kennedy found that other challenged provisions went too far into the realm of federal jurisdiction. This includes a provision that makes it a crime for illegal immigrants to work and another that requires them to carry their immigration documents. Specifically, the court invalidated the following:

- Section 3 making it a crime under Arizona law for unauthorized immigrants to violate the provisions of federal law requiring them to apply for “registration” with the federal government and to carry a registration card if one has been issued to them;
- Section 5(C) making it a crime under Arizona law for immigrants who are not authorized to work in the United States to apply for work, solicit work in a public place, or perform work within the state’s borders; and
- Section 6 authorizing state and local police officers to arrest immigrants without a warrant where “probable cause” exists that they committed a public offense making them removable from the United States.

Greenberg Traurig will continue to follow the implementation of this law, as well as potential challenges at the state level.

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