



Written by [Raven Clabough](#) on August 22, 2012

Federal Court Gives Conflicting Rulings on Ala., Ga. Immigration Laws

Conflicting rulings came down from the 11th U.S. Court of Appeals in cases involving immigration laws in the states of [Alabama](#) and Georgia.

The federal appeals court ruled on Monday that the hold should be lifted that was placed on the section of Georgia's 2011 immigration law that pertains to the verification of legal status of suspects detained by law enforcement. But the same court determined that it would be unconstitutional for the state of Alabama to check the immigration status of schoolchildren when they enroll, or to require illegal immigrants to carry identification.



In the ruling on Georgia's law, the panel of the court did, however, maintain the injunction that blocks a section of the law that prosecutes certain individuals who knowingly harbor or transport illegal immigrants while a crime is being committed.

Fox News notes, "The decision tracks a recent U.S. Supreme Court ruling upholding parts of a similar law in Arizona." In fact, the 11th Circuit Court referenced the Supreme Court ruling on the Arizona immigration law in its own decision to lift the verification section of the law, known as section 8:

In *Arizona v. United States*, the Supreme Court approved of a similar state provision, and in light of that holding we likewise conclude at this stage of litigation that Plaintiffs are not likely to succeed on the claim that section 8 is pre-empted by federal law.

Circuit Judge Charles Wilson wrote in the court's 33-page decision that Georgia's section on verification of immigration status is "less facially problematic than the provision" that the Supreme Court maintained in Arizona, where law enforcement is required to investigate the immigration status of a detainee when the detainee cannot prove his or her legal status. The law in Georgia only allows law enforcement authorities to verify legality, but does not require it.

And like the Supreme Court ruling in Arizona, Judge Wilson emphasized that he sides with the law as long as it is enforced in a non-discriminatory way. He wrote, "The Court left open the possibility that interpretation and application of Arizona's law could prove problematic in practice and refused to foreclose future challenges."

Georgia Attorney General Sam Olens stated that he was pleased with the ruling overall, though he was disappointed that the court upheld a part of the injunction. He added,

After over a year of litigation, only one of the 23 sections of (House Bill) 87 has been invalidated. We are currently reviewing the 11th Circuit's ruling to determine whether further appeal would be



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appropriate at this stage of the case.

A spokesman for Gov. Nathan Deal also stated, “We knew Georgia was on solid footing after the Arizona ruling.”

And State Rep. Matt Ramsey, who sponsored the immigration bill, indicated that he was generally pleased with the outcome:

Just as we were pleased when the U.S. Supreme Court upheld one of the center pieces of the Arizona law ... we are pleased that the 11th Circuit has upheld a similar provision in our Georgia law.

Omar Jadwat, American Civil Liberties Union senior staff attorney with the ACLU’s Immigrants’ Rights Project, remarked that he was unhappy that the court did not uphold the injunction against the verification section, but was happy that the court kept one part of the injunction. “I think it’s a strong sign that all the state harboring laws will go down,” he said, adding,

The court today rejected many parts of Alabama and Georgia’s anti-immigrant laws, including attempts to criminalize everyday interactions with undocumented immigrants and Alabama’s callous attempt to deprive some children of their constitutional right to education. The court explicitly left the door open to further challenges against the “show me your papers” provision, which we will continue to fight.

A lower court in the state of Georgia must still rule on a challenge to the law that has been filed by activist groups.

Meanwhile, the appeals court ruled that Alabama’s immigration law ordering schools to check the citizenship status of new students was unconstitutional. It also determined that police may continue to check the papers of those suspects they detain.

USA Today reports,

The 11th Circuit Court of Appeals did uphold provisions of the state immigration law that allow police to stop people they have a “reasonable suspicion” of being in the country unlawfully, and to ask about the immigration status of motorists without driver’s licenses.

However that court rejected the provision that prohibited residents and businesses from contracting with illegal immigrants. The court determined that the provision, known as Section 27, is “forcing undocumented individuals out of Alabama.” “To say that section 27 is extraordinary and unprecedented would be an understatement,” the court wrote in [its ruling](#).

The court stated that immigration checks for students would cause “significant interference with the children’s right to education” and therefore was in violation of the equal protection clause of the Constitution.

Some analysts contend, however, that such a ruling directly contradicts the first paragraph of the 14th Amendment which seems to indicate that the protections provided under the Constitution are specifically for American citizens:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to



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any person within its jurisdiction the equal protection of the laws.

In fact, cases involving illegal immigrants should be relatively simple. As Slate.com [notes](#), “Immigration proceedings are matters of administrative law, not criminal law. As a result, the consequence of violating your immigration status is not jail, but deportation.”



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