



Sessions Says DOJ Will Appeal Judge's Ruling Blocking "Sanctuary Cities" Executive Order

In a statement issued on April 26, Attorney General Jeff Sessions announced that the Justice Department will continue to litigate in the case involving U.S. District Judge William Orrick's ruling the previous day blocking the Trump administration's January 25 executive order to withhold funding from sanctuary cities.



Sessions' statement noted: "The Department of Justice cannot accept such a result, and as the President has made clear, we will continue to litigate this case to vindicate the rule of law."

Shortly after Orrick announced his ruling, the White House released a statement that indicated the administration would fight back in the courts:

This case is yet one more example of egregious overreach by a single, unelected district judge. Today's ruling undermines faith in our legal system and raises serious questions about circuit shopping. But we are confident we will ultimately prevail in the Supreme Court, just as we will prevail in our lawful efforts to impose immigration restrictions necessary to keep terrorists out of the United States.

In making his ruling, Orrick used language that seems on the surface to be vague enough to warrant further clarification or dismissal by higher courts. For example, Orrick said in his ruling — in answer to a federal government attorney's argument in his court that the executive order was solely designed to allow enforcement of 8 U.S.C. 1373 — "Communication between government agencies and the Immigration and Naturalization Service" — that "this interpretation renders the Order toothless; the Government can already enforce these three grants by the terms of those grants and can enforce 8 U.S.C. 1373 to the extent legally possible under the terms of existing law."

Orrick said that his ruling "does not affect the ability of the Attorney General or the Secretary to enforce existing conditions of federal grants or 8 U.S.C. 1373, nor does it impact the Secretary's ability to develop regulations or other guidance defining what a sanctuary jurisdiction is or designating a jurisdiction as such."

"It does prohibit the Government from exercising Section 9(a) in a way that violates the Constitution," Orrick continued, referring to the section of the executive order regarding "sanctuary cities."

The two plaintiffs in the case in whose favor Orrick ruled — Santa Clara County and San Francisco County — asserted that the Trump executive order was "vague and standardless [and] that it violates the Fifth Amendment's Due Process Clause and is void for vagueness."

And yet, Orrick's statement that his ruling only "prohibit[s] the Government from exercising Section 9(a) in a way that violates the Constitution," is very vague. Who is to determine how the federal



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government can exercise enforcement of Section 9(a) of the executive order in a way that does not violate the Constitution? Orrick? A higher court? That may very well be who makes the final determination if this case eventually is heard by the Supreme Court.

Section 9(a) of Trump's January 25 executive order states:

In furtherance of this policy, the Attorney General and the Secretary, in their discretion and to the extent consistent with law, shall ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary. The Secretary has the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction. The Attorney General shall take appropriate enforcement action against any entity that violates 8 U.S.C. 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law.

Orrick was nominated to be a U.S. District Judge for the United States District Court for the Northern District of California by former President Obama on June 11, 2012. The Senate confirmed his nomination on May 15, 2013, by a vote of 56 ayes to 41 nays.

According to the Public Citizen, a non-profit, consumer rights advocacy group, Orrick, while employed as a campaign "bundler" by the law firm Coblenz Patch Duffy & Bass in 2008, raised at least \$200,000 for Barack Obama and donated \$30,800 to committees supporting him.

As a judge, Orrick has developed a track record of ruling in favor of radical organizations. CNN reported on August 1, 2015 that Orrick had issued a temporary restraining order the previous day against the Center for Medical Progress (CMP), a pro-life organization that had secretly recorded meetings of the National Abortion Federation, an international organization of abortion providers.

The CMP received nationwide attention after releasing several undercover videos of Planned Parenthood staffers illegally selling fetal tissue.

Orrick claimed that he had issued the restraining order out of concern for the safety of National Abortion Federation leaders. "NAF would be likely to suffer irreparable injury, absent an ex parte temporary restraining order, in the form of harassment, intimidation, violence, invasion of privacy, and injury to reputation, and the requested relief is in the public interest," the judge wrote.

David Daleiden, the head of The Center for Medical Progress, called the National Abortion Federation, to which multiple Planned Parenthood affiliates belong, a "criminal organization" in a statement on July 31, 2015.

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