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# OPINION



## Offensive, Unjust and Un-American

### Arizona's immigration law in a bind

BY RAUL A. REYES



Arizona Gov. Jan Brewer called a news conference in Phoenix after the Supreme Court released its ruling on her state's "papers, please" immigration law. She announced that the key components of her law "unanimously have been vindicated by the highest court in the land." She beamed as she called the decision "a victory for the rule of law."

Watching her on live TV, I was a bit confused. The Supreme Court struck down nearly all of Arizona's law, on a 5-3 vote. Aside from not being "unanimous," I wouldn't call that being "vindicated," let alone scoring a "victory." Let's unpack the Supreme Court ruling and see what it really means — and why it matters.

The Supreme Court reviewed four parts of the law known as SB 1070. One section made it a crime for undocumented people to be in the state. A second section made it a crime for undocumented people to work or look for work. A third section allowed warrantless searches of undocumented people by the

police. And a fourth required that the police check the immigration status of anyone they stopped whom they suspected of being undocumented.

The court tossed out three sections of SB 1070 as unconstitutional, deciding that that Arizona had overstepped its authority by going beyond federal law. Under the Constitution's supremacy clause the court noted that only the federal government can set immigration policy. The reasoning behind this is simple. What would happen if each state decided to pass its own immigration laws? We would end up with at least 50 different immigration policies, maybe more if the District of Columbia, Puerto Rico, and other non-state jurisdictions followed suit.

The court didn't strike down the most controversial part of SB 1070 — the requirement that the police check people's papers if officers suspect they are undocumented. Yet the court noted that if Arizona didn't apply this part of its immigration law with great care, the Supremes are likely to conduct a future review of this section.

So much for that "victory" Brewer claimed. At best, the court took a "wait and see" approach on one out of the law's four sections.

Arizona's immigration law puts state and local police in a tough spot. In a state where roughly one in three people is Latino, how can of-

ficers decide who is undocumented and who is not? If they make a judgment based on whether people are speaking Spanish or have an accent, the police can wind up being sued for civil rights violations.

But another part of Arizona's controversial law allows citizens to sue their local law enforcement officers if they believe they are not fully enforcing SB 1070. So Arizona police and sheriffs can be sued if they racially profile people. And they can be sued if they don't. How crazy is that?

Realistically, Arizona's immigration law is sure to wind up before the Supreme Court again. Latino advocacy groups and the American Civil Liberties Union have plans to sue based on civil rights violations. After all, if you live in Arizona and your name is Smith, the police are unlikely to ask you for immigration papers if they pull you over for speeding. However, if your last

name is Gonzalez, you could be asked to prove your citizenship or permanent residency status. That's a violation of the Constitution's equal protection clause, which says all people must be treated equally under the law.

Americans should be concerned about this immigration law's fate because Arizona has inspired copycat laws across the country, from Utah to Georgia. Mitt Romney, who advocated the bizarre concept of self-deportation as an immigration policy during the GOP primaries, has called SB 1070 "a model for the nation."

Like Arizona Gov. Jan Brewer, the Republican Party's all-but-official presidential nominee should take another look at the Supreme Court's ruling. Not only is SB 1070 mostly illegal, it is offensive, unjust, and truly un-American.

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