



FAIR FEDERATION FOR AMERICAN IMMIGRATION REFORM

Immigration REPORT

JUNE 2015

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Facing the Music: Obama Administration Sued Over Another Executive Abuse

The Immigration Reform Law Institute (IRLI), the public interest law firm affiliated with FAIR, filed a complaint against the federal government on April 23, asking the D.C. District Court to prevent the Department of Homeland Security (DHS) from granting work authorization to certain non-immigrant visa holders. The lawsuit charges that the DHS's new H-4 visa rule, which purports to grant work permits to spouses of so-called "high-tech" H-1B guest workers, violates federal law.

IRLI filed suit on behalf of Save

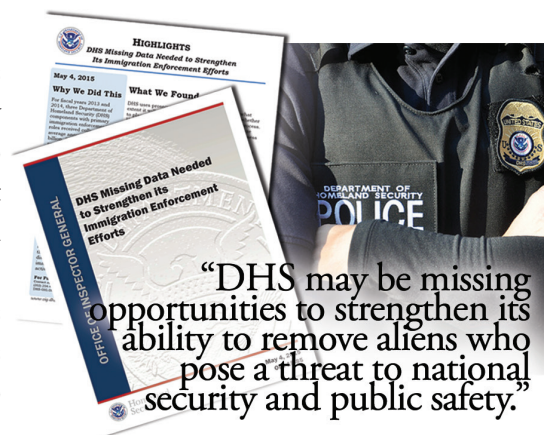
Jobs USA, a group of former employees of Southern California Edison. The publicly-traded corporate utility was recently made the subject of a bipartisan congressional investigation for firing hundreds of American workers after forcing them to train their cheaper foreign replacements.

The case, *Save Jobs USA v. USDHS*, could have major implications for users of H-1B visas, such as the trillion-dollar tech industry, and their corporate lobbyists who are currently spearheading legislative efforts to dramatically expand the number of "high-tech" work-

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DHS's "Case-by-Case" Amnesty Lie Is Exposed by Its Inspector General

The Obama administration claims virtually unlimited discretionary authority to allow removable aliens to remain in the U.S. However, a report by the Department of Homeland Security's Inspector General (IG) reveals that the department only keeps partial data on the number of times agents use prosecutorial discretion to release removable illegal aliens.



CONTINUED ON PAGE 3

Everything's Bigger in Texas – But Population Growth Doesn't Have to Be

One of FAIR's primary educational missions is to draw the connection between immigration policy and massive U.S. population growth. That issue is even more pertinent today, as many parts of the country struggle with the effects of prolonged drought, even as immigration fuels an ever-growing population.

On the 45th anniversary of the original Earth Day, FAIR participated in the nation's largest celebration in Dallas, Texas. The event was an opportunity to remind environmentalists that population growth was a central focus of the original Earth Day held in 1970. Thirty years later, the event's founder, the late Sen. Gaylord Nelson (D-Wis.), re-emphasized the importance of this issue. "The hard fact is that while the population is booming here and around the world, the resource base that sustains the economy is rapidly dwindling. It is not just a problem in faraway lands, it is an urgent, indeed, a critical problem here at home right now."



Texas Earth Day participants visit FAIR's exhibit highlighting the connection between immigration and U.S. population growth.

FAIR challenged Earth Day 2015 attendees to consider the impact population growth has on the environment, from increased resource consumption to development of natural spaces. Members of the FAIR team talked to Texans about the leading role immigration plays in our national population growth and ways to take control of our national destiny, including stopping the inflows of unchecked illegal immigration and reducing legal immigration.

FAIR launched an environmentally focused website, FAIRImmigrationMatters.org, in honor of Earth Day Texas illustrating how immigration-driven population growth will affect Texas. FAIR members are encouraged to visit the site now and in the future when it is updated with national data and impact statements.

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IRLI LAWSUIT *continued*

ers that can be imported into the country. On top of their complaint alleging, in part, that DHS exceeded its statutory authority and ignored statutory labor protections when it issued the rule, IRLI is requesting a preliminary injunction from the court against the program until a full trial on the merits of the case can be heard. The District Court denied Save Jobs USA's motion for a preliminary injunction. But IRLI is continuing its efforts to demonstrate that the plaintiffs have legal standing because of the harm that would be caused to American workers.

DHS's H-4 visa rule has the potential to immediately qualify nearly 180,000 spouses of guest workers for work authorization, and add 55,000 annually in subsequent years. These additional work authorizations directly contravene Congress's intent when it set limits on admissions of H-1B visas, and further undermine the interests of millions of unemployed and underemployed Americans.

DHS IG REPORT *continued*

While the administration maintains the preposterous claim that decisions on prosecutorial discretion are made on a case-by-case basis, the IG found that “DHS does not collect and analyze data on the use of prosecutorial discretion to fully assess its current immigration enforcement activities and to develop future policy.” As a result, the IG charged, DHS “may be

DHS does not collect and analyze data on the use of prosecutorial discretion to fully assess its current immigration enforcement activities and to develop future policy.

missing opportunities to strengthen its ability to remove aliens who pose a threat to national security and public safety.”

The report also found that when Immigration and Customs Enforcement (ICE) agents exercise prosecutorial discretion (often under pressure from their superiors), they often do so with inadequate information about the aliens they are putting back onto the streets. “When applying prosecutorial discretion, ICE field office personnel said they might not always have access to an individual’s criminal history in his or her country of origin,” the report found. “As a result, aliens convicted of or wanted for a felony committed in their home country, but not convicted of a felony or significant misdemeanor in the United States, may not be identified as a DHS enforcement priority.”

White House Task Force Recommends Terminating Nearly All Efforts to Identify Aliens in Police Custody

The White House Task Force on 21st Century Policing has become the latest vehicle in the Obama administration’s assault on immigration enforcement. The task force, which was convened as an effort to improve relations between police and local communities in the aftermath of several high profile shootings involving police, included recommendations in its report to “decouple” immigration enforcement from the activities of local police departments.

These recommendations were made despite explicit federal statutes calling for closer cooperation between local police and federal immigration authorities. The task force’s report, issued on May 18, calls for the Department of Homeland Security (DHS) to “terminate the use of the state and local criminal justice system, including through detention, notification, and transfer requests, to enforce civil immigration laws against civil and non-serious criminal offenders.”

Erecting a firewall between local police and federal immigration authorities is a way of building trust between immigrants and law enforcement, states the task force report. The task force, which asserted that its recommendation “is central to overall public safety,” was seemingly oblivious to the fact that the deportable aliens who are identified by ICE for removal are people who have been arrested and charged with other offenses in the United States.

There is no evidence that police anywhere in the country inquire about immigration status during routine encounters with the public, or when individuals report crimes. Nor is there any evidence that illegal aliens are fearful of local police, or the threat of potential deportation. Illegal aliens openly demand amnesty, carrying signs reading



No “trust-building” needed. Illegal aliens, “Undocumented, Unafraid, and Unapologetic” disrupt speech by Janet Napolitano.

FAIR, IRLI Among Those Filing Briefs in Support of States' Challenge to Obama Amnesty

The Immigration Reform Law Institute (IRLI), together with FAIR, the Remembrance Project and the National Sheriffs' Association (a professional group made up of thousands of sheriffs, deputies, other law enforcement personnel, public safety professionals, and concerned citizens nationwide), filed a friend-of-the-court (amicus) brief in the Fifth Circuit Court of Appeals in support of the 26 states that sued to stop the Obama Administration's latest unlawful executive action granting amnesty to millions of illegal aliens.



IRLI is a public interest law firm, affiliated with FAIR, representing the legal interests of the Americans who are harmed by mass immigration and illegal immigration. The brief can be read at IRLI's website, irli.org.

IRLI's brief provides a clear and concise summary of the comprehensive legal framework which Congress put in place precisely to control the executive branch's politicization of immigration policy. Further, it shows that the Obama Justice Department's argument that the executive can hand out work

CONTINUED ON PAGE 5

WHITE HOUSE TASK FORCE *continued*

"Undocumented and Unafraid," routinely lobby local and state governments, walk the halls of Congress, and even appear at the president's State of the Union address.

The task force's immigration recommendations were met with skepticism by law enforcement professionals who are free to speak their minds. Lance LoRusso, an attorney and former Atlanta police officer, called the report "a political statement, not a law enforcement statement."

Even before the task force's recommendation, the Obama administration had already taken steps to scale back involvement by local police in identifying deportable aliens. The administration severely constrained the congressionally

mandated 287(g) program that trains local police to identify and detain illegal aliens. It has terminated the Secure Communities program used to identify and issue detainer requests for criminal aliens in police custody.

Secure Communities has been replaced with the Priority Enforcement Program (PEP) under which ICE asks local authorities to notify them when non-citizens are to be released from jail, with the assurance that such requests would be made only in cases in which the alien has been convicted of a serious crime.

The administration has also remained silent as a growing number of sanctuary jurisdictions bar ICE agents from local jails. The latest

jurisdiction to do so is Los Angeles County, the nation's most populous county, despite direct pleas from DHS Secretary Jeh Johnson and ICE director Sarah Saldaña to allow agents to remain. Unlike lawsuits filed against states like Arizona and Alabama, which enacted laws calling for more local involvement in identifying deportable aliens, the Obama administration has yet to take legal action against a single jurisdiction that impedes even their minimal efforts to remove criminal aliens.

On May 26, a three-judge panel of the Fifth Circuit Court of Appeals denied the administration's motion for a stay of Judge Hanen's injunction.



Across the Country

NEVADA

Gov. Brian Sandoval (R), signed legislation in May that will qualify some illegal aliens to get teaching licenses allowing them to teach in the state's public schools. Illegal aliens who have been granted protection from deportation under President Obama's DACA program (and other illegal aliens who might be covered under broader executive amnesty programs now blocked by an injunction) would be able to fill teaching jobs under AB 27. Existing Nevada law allows the state superintendent to grant teaching licenses to foreign nationals holding work permits only if there is a teacher shortage in a specific subject area. Under AB 27, teaching licenses could be broadly issued to DACA beneficiaries and others with work permits if there are unfilled vacancies in any subject area.

CALIFORNIA

Illegal aliens and their advocates converged on the State Capitol in Sacramento on May 17, to lobby the legislature for more benefits, services and protections as part of the 19th annual Immigrant Day event. Topping their list of demands is passage of AB 4, which would establish a state-funded health insurance exchange for illegal aliens who cannot qualify for subsidies under the federal Affordable Care Act, aka, Obamacare. The estimated price tag for such an exchange is between \$175 million and \$740 million a year. Though it was not part of Gov. Jerry Brown's (D) proposed budget, it remains a priority for the Democratic leadership in both houses of the legislature.

Also on the list of legislative priorities for those lobbying as part of Immigrant Day is AB 622, a bill that would bar California employers from using the federal E-Verify system to check the work eligibility status of existing employees or applicants who have not yet been offered a job.

CHALLENGING THE OBAMA AMNESTY *continued*

permits to any illegal alien it chooses lacks merit and that they're misapplying Supreme Court precedent in their attempts to deny the ability of federal judges to review the executive's actions on amnesty.

Also filing an amicus brief in support of the states' lawsuit were 113 members of Congress – 25 senators and 88 House members. The congressional brief asserts that the president's executive amnesty "violates the Constitution and Con-

gress's intent." The brief further notes that "The Constitution vested in Congress the exclusive authority to make law and set immigration policies" and that "the DHS directive, by the admission of the president, changes the law and sets a new policy, exceeding the executive's constitutional authority and disrupting the delicate balance of powers."

Among the notable legislators who signed on to the brief are Senate

Majority Leader Mitch McConnell (R-Ky.), Majority Whip John Cornyn (R-Texas), House Judiciary Committee Chairman Bob Goodlatte (R-Va.), as well as two announced presidential candidates, Sens. Ted Cruz (R-Texas) and Marco Rubio (R-Fla.).

On May 26, a three-judge panel of the Fifth Circuit Court of Appeals sided with the 26 states and denied the administration's request to lift the injunction. ■

Department of Justice Admits to Violating Court Injunction of Obama Amnesty Program

U.S. District Court Judge Andrew Hanen was already furious with the Obama administration for misleading him about the start date for the president's new executive amnesty programs announced last November. On February 16, Judge Hanen issued an injunction blocking implementation of the expanded Deferred Action for Childhood Arrivals (DACA) and a new Deferred Action for Parents of Americans (DAPA) programs. He later discovered that although the administration had assured him that they would not begin implementing these programs before February 18, they had already approved more than 100,000 applications for three-year deferrals from deportation under the expanded DACA program.

Judge Hanen's injunction was issued in response to a lawsuit filed by 26 states claiming that the president's actions were unconstitutional and that their implementation would impose fiscal burdens on the states.

On May 7, the Department of Justice (DOJ), representing the administration, filed another "Advisory" informing the judge that U.S. Citizenship and Immigration Services (USCIS) had issued some 2,000 new three-year DACA permits after his February 16 injunction. The DOJ's advisory claims that these DACA approvals – in clear violation of Hanen's injunction – were only "discovered" the previous day. The advisory promised that USCIS would convert these three-year permits

It's unclear whether DHS's granting of extended DACA approvals was a deliberate violation of a court order, or just sloppiness. Either way, it is consistent with the administration's pattern of deceptive behavior.

to two-year permits (the duration of deferments under the original 2012 DACA program) and claimed to be "gathering additional information" about how the "errors" occurred.

Whether the grant of extended DACA approvals in direct violation of a court order was deliberate or a result of sloppiness resulting from DHS's effort to rubberstamp as many applications as possible is unknown at this time. However, it is consistent with a pattern of behavior on the part of the administration that includes deliberate efforts to mislead Congress and the American people about its immigration actions, and deliberate withholding of information that is vital to the public interest.

As a result of a decision by the Fifth Circuit Court of Appeals, the lower court's injunction remains in effect. It is widely expected that the case will ultimately be decided by the United States Supreme Court.

■

House Rejects Amnesty in Exchange for Military Enlistment

The House of Representatives beat back the latest attempt to grant amnesty and citizenship to illegal aliens who enlist in the military. A provision inserted in the National Defense Authorization Act (NDAA) by freshman Rep. Ruben Gallego (D-Ariz.) as the bill was being marked up by the House Armed Services Committee was rejected by the full House when the bill reached the floor in mid-May.

An amendment offered by Rep. Mo Brooks (R-Ala.),

stripping the Gallego provision from the NDAA, was approved by a 221-202 vote in the House. All 182 House Democrats and 20 Republicans opposed the Brooks amendment, which was adopted with the support of 221 Republicans.

Approval of the Brooks amendment represents the latest legislative victory against amnesty for illegal aliens. Amnesty backers have repeatedly tried, and failed, to use military enlistment as a vehicle to gain amnesty for il-

Update... Fifth Circuit Denies Obama Request to Lift Injunction

As the current issue of the FAIR *Immigration Report* was going to press, a three-judge panel of the Fifth Circuit Court of Appeals refused the Department of Justice's (DOJ) request for an emergency stay of U.S. District Court Judge Andrew Hanen's temporary injunction blocking implementation of President Obama's new executive amnesty programs. The panel denied the administration's request to lift the injunction meaning that, for now, the president's new amnesty programs cannot be implemented.

The White House announced that it would not appeal the Fifth Circuit's ruling to the U.S. Supreme Court. DOJ spokesman, Patrick Rodenbush, said the administration would instead return to the Fifth Circuit in July and ask that the injunction be overturned "on the merits of the preliminary injunction itself." For now, however, the administration cannot proceed with its plan to grant deferred action and work authorization to an estimate 4.7 million illegal aliens.

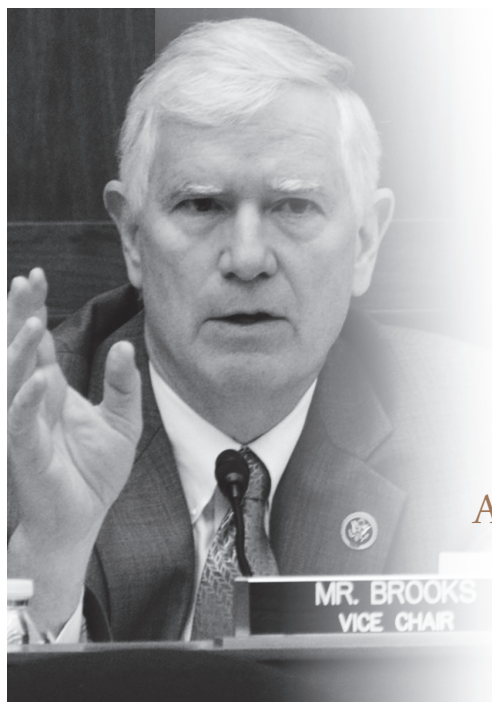
AMNESTY FOR ENLISTMENT *continued*

legal aliens. Similar attempts were made by the 113th Congress with the introduction of the ENLIST Act by Rep. Jeff Denham (R-Calif.) both as free-standing legislation and as an amendment to last year's NDAA.

In the days leading up to the House vote, FAIR circulated alerts to true immigration reform supporters, urging them to call and email members of Congress to support the Brooks amendment. As has been the case many times in the past, FAIR members and others responded, contributing to this important victory.

America has a proud tradition of being defended honorably by citizens who are prepared to serve their country. Allowing illegal aliens to enlist in the military (they would not technically even have to serve) would have promoted no national defense interest.

The military has had no problems meeting its recruitment goals and attracting highly qualified and



patriotic Americans and legal immigrants eager to serve the nation. In fact, the Gallego provision was offered as the military is carrying out significant downsizing of personnel – providing fewer enlistment opportunities for Americans and even denying re-enlistment opportunities to some service people. As Rep. Brooks observed after approval

“It makes no sense to me that, at the same time the Army is downsizing and issuing pink slips to American soldiers serving in Afghanistan, there are Congressmen who seek to help illegal aliens deprive American citizens and lawful immigrants of military service opportunities.”

—Rep. Mo Brooks (R-Ala.)

of his amendment, “It makes no sense to me that, at the same time the Army is downsizing and issuing pink slips to American soldiers serving in Afghanistan, there are Congressmen who seek to help illegal aliens deprive American citizens and lawful immigrants of military service opportunities.”

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Charity Navigator has awarded FAIR four out of a possible four stars. In earning Charity Navigator's highest rating, FAIR has demonstrated exceptional financial health, outperforming most of our peers in our efforts to manage and grow our finances in the most fiscally responsible way possible.

The Legacy You Leave

One of the simplest but most effective ways to support a charitable organization is through planned giving. Why not create a legacy through a gift of a bequest to FAIR?

A charitable bequest, a gift made through your will or living trust, can benefit both you and the causes most important to you. Your bequest not only supports our efforts to achieve true immigration reform, but also leaves a legacy for your children and grandchildren.

It typically costs you nothing to add a charitable bequest to your will, and you have the flexibility of modifying the provisions at any time if your circumstances change.

Additionally, if you have a taxable estate, you may benefit from estate tax savings. This means that you can preserve and give more of your estate to your family.

Begin your legacy today through bequest giving. And if you have already included us in your plans, please let us know so that we may recognize and thank you.



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