LAW ENFORCEMENT - ARIZONA

Melendres v. Arpaio

United States District Court, D. Arizona - May 24, 2013 - Not Reported in F.Supp.2d - 2013 WL 2297173

At issue in this lawsuit were: 1) the current policies and practices of the Maricopa County Sheriff's Office ("MCSO") by which it investigates and/or detains persons whom it cannot charge with a state crime but whom it believes to be in the country without authorization; and 2) the operations the MCSO claims a right to use in enforcing immigration-related state criminal and civil laws, such as the Arizona Human Smuggling Statute, Ariz.Rev.Stat. ("A.R.S.") § 13–2319 (Supp.2010), and the Arizona Employer Sanctions Law, A.R.S. § 23–211 et seq. (Supp.2010).

According to the position of the MCSO at trial, it claims the right to use the same type of saturation patrols to enforce state laws that it used during the time that it had authority delegated from the federal government to enforce civil violations of federal immigration law.

The MCSO asserts that ICE's termination of its 287(g) authority does not affect its ability to conduct such operations because a person's immigration status is relevant to determining whether the Arizona state crime of human smuggling—or possibly the violation of other state laws related to immigration—are occurring.

The district court held that the knowledge that a person is in the country without authorization does not, without more, provide sufficient reasonable suspicion that a person has violated Arizona criminal laws relating to immigration, such as the Arizona Human Smuggling Act, to justify a Terry stop for purposes of investigative detention. To the extent the MCSO is authorized to investigate violations of the Arizona Employer Sanctions law, that law does not provide criminal sanctions against either employers or employees. A statute that provides only civil sanctions is not a sufficient basis on which the MCSO can arrest or conduct Terry stops of either employers or employees.

The court concluded that plaintiffs were entitled to injunctive relief to protect them from usurpation of rights guaranteed under the United States Constitution. Therefore, in the absence of further facts that would give rise to reasonable suspicion or probable cause that a violation of either federal criminal law or applicable state law is occurring, the MCSO was enjoined from: 1) enforcing its LEAR policy; 2) using Hispanic ancestry or race as any factor in making law enforcement decisions pertaining to whether a person is authorized to be in the country; and 3) unconstitutionally lengthening stops.

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