

Bond Case Briefs

Municipal Finance Law Since 1971

POLITICAL SUBDIVISIONS - NEW JERSEY

Ocean County Board of Commissioners v. Attorney General of State of New Jersey

United States Court of Appeals, Third Circuit - August 9, 2021 - F.4th - 2021 WL 3482908

Counties and county agencies filed suits against Attorney General for State of New Jersey, Office of Attorney General, and State of New Jersey, seeking declaration that law enforcement directive, also known as Immigrant Trust Directive, issued by Attorney General to limit ability of counties and local law enforcement to cooperate with federal immigration authorities violated United States Constitution and New Jersey law and was preempted by federal statutes.

Following consolidation of cases, the United States District Court for the District of New Jersey granted defendants' motion to dismiss for lack of subject matter jurisdiction and for failure to state claim. Counties and county agencies appealed.

The Court of Appeals held that:

- In matter of first impression, political subdivision may sue its creator state in federal court under Supremacy Clause; and
- Immigrant Trust Directive was not preempted by federal law.

Immigrant Trust Directive, issued by Attorney General for State of New Jersey, limiting ability of counties and local law enforcement to cooperate with federal immigration authorities, was not preempted by federal statutes, barring state entity or official from prohibiting, or in any way restricting, any government entity or official from sharing immigration information with federal authorities, and also providing that no state or local government entity could be prohibited, or in any way restricted, from communicating immigration information to federal government, since statutes regulated state actors, not private actors.