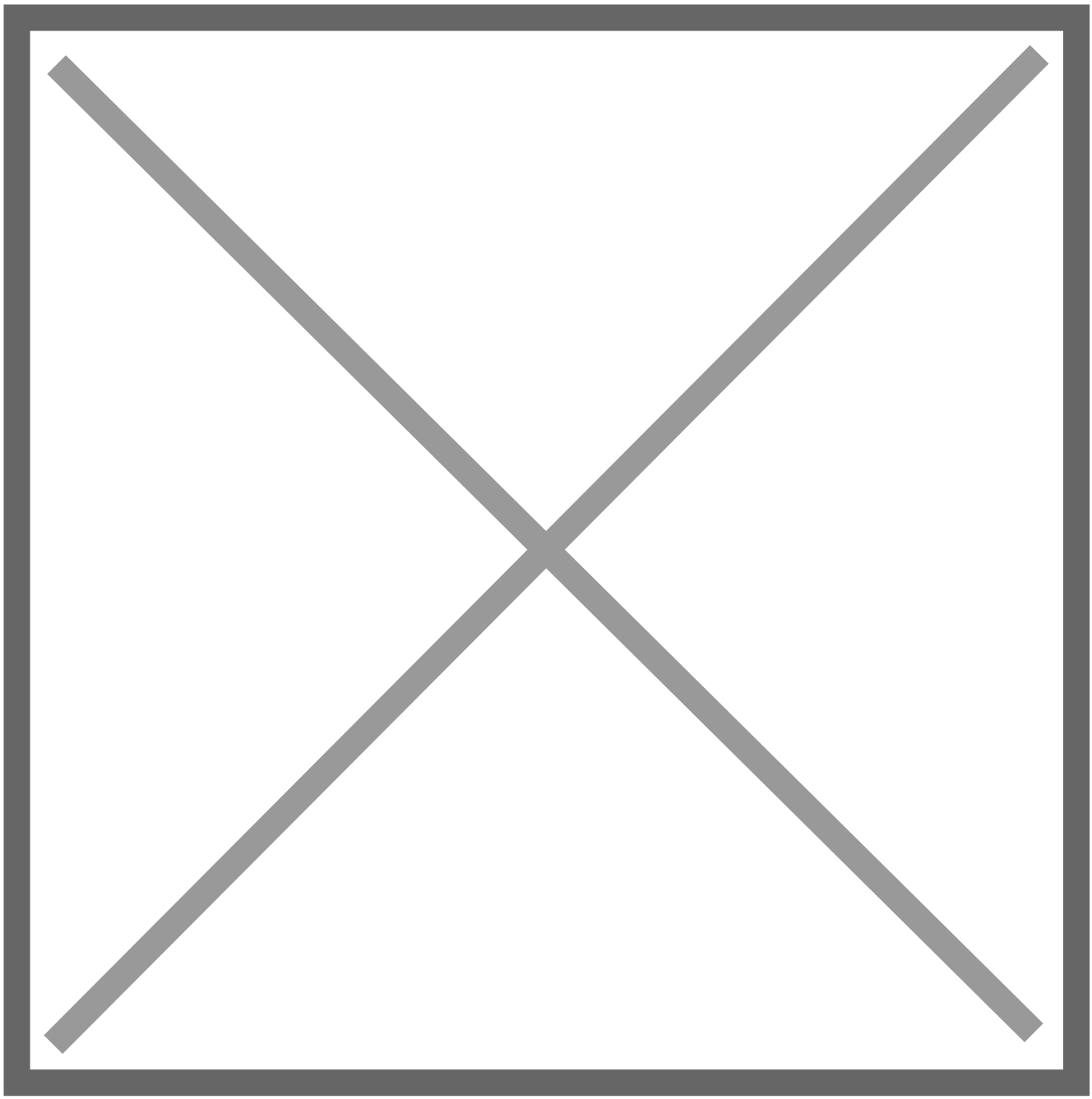
News



Demonstrators gather outside the U.S. Supreme Court in Washington April 23, 2019, following oral arguments on a citizenship question for the 2020 census. A second federal court blocked the Trump administration Oct. 22, 2020, from excluding immigrants in the U.S. without legal status from the census count. (CNS photo/Reuters/Shannon Stapleton)



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For the second time this fall, a panel of three federal judges said President Donald Trump acted unlawfully with his order in July to exclude immigrants in the U.S. without legal documentation from being counted in the 2020 census for the redrawing of congressional districts.

Although the Supreme Court just agreed Oct. 16 to take up this issue, the panel from the U.S. District Court for the Northern District of California issued a permanent injunction Oct. 22 against the president's order. The panel said it was unlawful and that it violated the Constitution, the federal Census Act and the separation of powers of the federal and state governments.

"The Constitution's text, drafting history, 230 years of historical practice, and Supreme Court case law all support the conclusion that apportionment must be based on all persons residing in each state, including undocumented immigrants," the California judges wrote.

The Trump administration has already appealed a previous decision to block its efforts regarding the census issued by a panel of federal judges in New York Sept. 10. That ruling is what the Supreme Court is taking up Nov. 30.

Maryland, Massachusetts and the District of Columbia also have pending challenges against Trump's census order.

The federal judges in New York said Trump's order violated laws about how the census is conducted and the process for redrawing congressional districts based on census numbers, emphasizing that people in the United States illegally qualify to be counted in the states where they live.

"Throughout the nation's history, the figures used to determine the apportionment of Congress — in the language of the current statutes, the 'total population' and the 'whole number of persons' in each state — have included every person residing in the United States at the time of the census, whether citizen or noncitizen and whether living here with legal status or without," the panel said.

Democratic leaders, the U.S. Conference of Catholic Bishops and immigration advocates took issue with the president's memorandum on the census and predicted that it would meet legal challenges and would not likely become policy.

Many also questioned how the administration would accurately go about determining how many people to exclude from data used to redraw congressional districts.

A July 22 statement issued by the chairmen of two USCCB committees described the president's memo as "simply wrong and divisive." They urged Trump to rescind it and instead make "efforts to protect and heal our nation and all who are living in our country."

"As we have stated before, we urge all people to be counted and fully included in the census," said the statement issued by Archbishop Paul S. Coakley of Oklahoma City, chairman of the Committee on Domestic Justice and Human Development, and Auxiliary Bishop Mario E. Dorsonville of Washington, chairman of the Committee on Migration.

"Counting the undocumented in the census and then denying them and the states in which they reside their rightful representation in Congress is counter to the Constitution and a grave injustice," they said, adding the policy also "makes people

feel invisible and not valued as human beings."

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"This is nothing but an unconstitutional and xenophobic attempt to weaponize the census to silence and scare immigrants. The immigrant community will not be silenced," tweeted Cabrini Immigrant Services of New York City July 21.

The Hope Border Institute tweeted: "The Constitution says the Census must count everyone, no exceptions." It also said on Twitter that the "Trump administration's illegal attempt to politicize the #Census and do an end run around the Constitution to exclude certain folks would mean overlooking 1.6 million folks in Texas alone and the financial impact to the state would be incalculable."

The president said excluding "illegal aliens" from the 2020 census "reflects a better understanding of the Constitution and is consistent with the principles of our representative democracy."

His memorandum went on to say: "My administration will not support giving congressional representation to aliens who enter or remain in the country unlawfully, because doing so would create perverse incentives and undermine our system of government."

"Just as we do not give political power to people who are here temporarily, we should not give political power to people who should not be here at all," it said.

Last year, the Supreme Court looked at the census and blocked the administration's attempt to add a citizenship question, saying the reason given for adding the question — to help enforce voting rights — seemed contrived.

The census is rooted in the text of the Constitution, which requires an "actual enumeration" of the population every 10 years. It determines federal funding for roads and schools and provides population numbers for redrawing congressional district boundaries and determining how many House representatives each state gets.