News



Migrants seeking asylum in the United States gather near the border wall Jan. 22, 2024, as seen from Ciudad Juarez, Mexico, after they crossed a razor wire fence and as members of the Texas National Guard stand guard. (OSV News/Jose Luis Gonzalez, Reuters)

Kate Scanlon

View Author Profile

OSV News

View Author Profile

Join the Conversation

Send your thoughts to *Letters to the Editor*. Learn more

New Orleans — March 20, 2024
Share on BlueskyShare on FacebookShare on TwitterEmail to a friendPrint

The 5th U.S. Circuit Court of Appeals issued a decision late March 19 once again blocking Texas from enforcing its controversial law that makes it a state crime for unauthorized migrants to cross into Texas from Mexico.

Earlier the same day, a divided U.S. Supreme Court March 19 lifted its temporary pause on the law and sent the matter back to the federal appeals court, which in effect briefly allowed the state to enforce the law while litigation proceeds.

The justices in the 6-3 majority had not offered a rationale for their finding, but Justice Amy Coney Barrett said in a concurring opinion that the 5th Circuit should issue a formal decision before the high court intervenes further.

Catholic organizations have opposed the legislation, known as Senate Bill 4, with the Texas Catholic Conference of Bishops previously stating it could have "deadly consequences for innocent migrants."

In a March 19 statement about the law, Texas Bishop Mark J. Seitz of El Paso said, "We are at an urgent and challenging moment in the defense of the rights and dignity of vulnerable persons on the move."

"Recent events in El Paso, as well as throughout the country also raise the specter of the criminalization of humanitarian aid to migrants and troubling threats to religious liberties enshrined in the First Amendment," Seitz said. "These realities call us to prayerfully reflect and consider the requirements of a faith which calls us to respect the inalienable dignity of every human being as well as the imperative to reimagine ways of effectively collaborating to build a society that welcomes, protects, integrates and promotes our sisters and brothers who migrate, and to do so together with them."

The law, SB 4, still faces legal challenges.

A district judge moved to temporarily block the law Feb. 29, but the 5th Circuit issued an administrative stay on that order, allowing the law to proceed until it could hear the appeal. However, Justice Samuel Alito then put the appeals court's order on pause March 4, so the Supreme Court could consider emergency requests from the Biden administration and immigrant rights groups to block SB 4's enforcement amid ongoing litigation.

The Supreme Court lifted that pause March 19. Barrett's concurrence indicated the 5th Circuit should be the "first mover" in the process before the high court intervenes on its emergency docket. Barrett's concurrence indicated that if the federal appeals court did not act "soon" the Biden administration could return to the high court.

Advertisement

Hours later, a 5th Circuit panel in a 2-1 decision put the Texas law back on pause in advance of arguments.

Federal law already makes it illegal to enter the U.S. without authorization, and most portions of a similar 2010 Arizona law were later struck down by the Supreme Court. Immigration advocacy groups in Texas filed a lawsuit over the bill prior to the Justice Department's challenge.

Other Supreme Court justices indicated their concern that Texas' law would create upheaval if it were allowed to proceed. Justice Sonia Sotomayor, who criticized the majority lifting its pause on SB 4's enforcement, said their order "invites further chaos and crisis in immigration enforcement," by upending "the federal-state balance of power that has existed for over a century, in which the National Government has had exclusive authority over entry and removal of noncitizens."

"Texas can now immediately enforce its own law imposing criminal liability on thousands of noncitizens and requiring their removal to Mexico," Sotomayor wrote. "This law will disrupt sensitive foreign relations, frustrate the protection of individuals fleeing persecution, hamper active federal enforcement efforts, undermine federal agencies' ability to detect and monitor imminent security threats, and deter noncitizens from reporting abuse or trafficking."

The Justice Department Jan. 3 sued Texas over SB 4, which grants local law enforcement officials power to arrest migrants suspected of lacking legal authorization to be in the U.S. The legislation forbids such arrests at schools, places of worship, health care facilities or designated SAFE-Ready facilities, which the state operates for those who have experienced sexual assault.

Supporters of the legislation argue it would deter unauthorized entry into the state by empowering its own law enforcement, while opponents argue the law is unconstitutional and inhumane, wading into a power reserved for federal authorities.