

ImmigrationProf Blog

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Montana Immigraion Enforcement Law Found Unconstitutional

By Immigration Prof

On Friday, Judge Jeffrey Sherlock of the First Judicial District Court struck down the vast majority of Montana's voter-approved law requiring state agencies to determine an applicant's citizenship or immigration status before granting a wide variety of state services. The law would have required denial of unemployment insurance benefits, licenses to practice trades or professions, enrollment in state universities, crime victim services, and infant hearing screenings to those who cannot prove their citizenship or immigration status.

The referendum, which was presented to Montana voters in the November 2012 election, passed with almost 80 percent of the vote. Before the law went into effect, the **Montana Immigrant Justice Alliance** ("MIJA") brought a lawsuit challenging its constitutionality. Shahid Haque-Hausrath, the President of the organization and an immigration attorney with the Border Crossing Law Firm, served as MIJA's lead attorney in the lawsuit. The Montana Attorney General's office defended the law, with former Solicitor General Lawrence VanDyke serving as lead counsel on the case.

Judge Sherlock ruled in MIJA's favor, holding that the mandates upon state agencies to determine immigration status, and deny a wide variety of state services to "illegal aliens," are preempted by federal law as an impermissible regulation of immigration.

This law would have placed added burdens on all Montanans to prove citizenship, but would have especially burdened immigrants.

The only provision of the law that was allowed to stand is one that partially corresponds to federal law, and permits communication between state employees and the federal government regarding a person's immigration status.

Judge Sherlock had previously granted a partial preliminary injunction in March 2013, and had denied two separate motions brought by the state to dismiss the lawsuit.

Brian Miller of Morrison, Sherwood, Wilson & Deola, PLLP served as co-counsel in this litigation.

Copies of the ruling, as well as other materials, can be downloaded [here](#).

KJ

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