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## Supreme Court should stand up for the right to encourage illegal immigration

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The debate over illegal immigration is complicated, but it should be a simple bipartisan point of agreement that both sides at least have the First Amendment right to make their arguments, unrestricted. Yet, current federal law criminalizes some pro-immigration speech and unfairly stifles debate.

This is at the heart of the case the Supreme Court heard on Tuesday, *United States v. Sineneng-Smith*. Current federal law criminalizes “encourage[ing] ... an alien to ... reside in the United States, knowing or in reckless disregard of the fact that such ... residence is ... in violation of law.” As the Cato Institute notes, this broad law could sweep up speech that ought to be protected under the First Amendment.

“There are people and organizations who urge illegal immigrants to stay in this country and wait for political change,” Cato’s amicus brief reads. “Lawyers will advise some immigrants — quite correctly, in many cases — that remaining in the country (illegally) will grant them certain constitutional or statutory protections that are unavailable outside the United States.”

Indeed, the plaintiff in the case, Evelyn Sineneng-Smith, was an immigration consultant rightfully convicted of fraud but additionally punished for encouraging illegal immigrants to remain in the country, seemingly exactly what you’d expect a pro-immigration advocate to do.

*Reason*’s Damon Root clearly lays out how easily this law could criminalize protected free speech:

For example, let’s say that a self-described advocate of open borders writes a book urging civil disobedience in the face of what that author sees as America’s unjust immigration regime. The book explicitly advises all undocumented immigrants to remain in the United States, to speak out, and to fight for their rights.

Would the sale of such a book encourage the unlawful presence of undocumented immigrants for financial gain? Clearly, it would. But the First Amendment would just as clearly protect the author’s liberty to write and sell such a book without facing federal charges.

This kind of censorship is unacceptable in a free society. It's unconscionable that federal law would quash the ability of lawyers, advocates, and authors to express their ideas and make their arguments — yes, even arguments that border hawks don't like.

At Tuesday's oral arguments, it appeared that some of the Supreme Court's conservative justices, such as Neil Gorsuch and Brett Kavanaugh, were sympathetic to the free speech claim, according to *Reason's* reporting. Kavanaugh wisely questioned whether this law would infringe on a charity's ability to advertise its services for immigrants or help illegal immigrants stay in the country, and the government's lawyers admitted that, yes, this is possible. Gorsuch, meanwhile, pointed out the glaring absurdity that the law actually imposes criminal penalties on speech that encourages offenses that are themselves only civil or administrative, not criminal, offenses.

Whether you personally favor lax or harsh immigration enforcement is really not of consequence here. Everyone should oppose overly broad laws that infringe on advocates' abilities to make arguments on pressing political issues.