



How will the Supreme Court rule in Arizona v. U.S.?

By Isaac Gorodetski on May 3, 2012

Last week, the Supreme Court heard [oral arguments](#) in [Arizona v. United States](#) on the issue of "whether federal immigration laws preclude Arizona's efforts at cooperative law enforcement and impliedly preempt four provisions of S.B. 1070 on their face." [Ilya Shapiro](#), senior fellow in constitutional studies at the Cato Institute and editor-in-chief of the Cato Supreme Court Review, recently discussed the case in our [regular podcast series](#).

[Today, we feature](#), fellow and senior legal analyst with the American Civil Rights Union and legal contributor to Breitbart News, Ken Klukowski's hypothesis on how the Court will rule:

I think two of the provisions of the statute, the alerting of federal authorities or inquiring with federal authorities regarding immigration status and also the warrantless arrest authority: those provisions fall I think pretty well within what we refer to as police power which is an inherent authority that all states possess to make laws for public health, public safety, social welfare, personal responsibility and morality. Those are the two, I believe, that the one judge in the Ninth Circuit voted to say was okay. I think there's a good chance, a real solid chance, you might be able to get five votes to uphold those. And I think that would be correct.

The other two provisions, making it a state crime not to have the federally required registration documents on you and also the provision making it a crime for an illegal alien to solicit work. Those I think face an uphill battle and I think that those are a much closer call regarding current federal law. Again, not saying that that federal law to the contrary, [if it is to the contrary] not saying it's a good idea, just saying that's a judgment that Congress has made. And so the way to change that would be Congress amending the law. Courts do not have the discretion to decide whether or not Congress's law is a good

one. They, just so long as it's constitutional, need to uphold it against any contrary state law.

Klukowski also comprehensively discusses the central legal issues and analyzes the arguments as articulated before the Court in the [full podcast](#).