



## Podcast with Ilya Shapiro: Arizona v. U.S. analysis and predictions

BY [ISAAC GORODETSKI](#) ON APRIL 26, 2012 8:16 AM

Yesterday morning, 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." To get further insight on how the argument played out before the Court and how the justices may rule, we invited [Ilya Shapiro](#), senior fellow in constitutional studies at the Cato Institute and editor-in-chief of the Cato Supreme Court Review, to discuss the case for our [regular podcast series](#).

Shapiro [opened the discussion](#) by outlining the federal government's challenge to Arizona's immigration law:

The law is more than one basic provision and there has been a lot of misunderstanding in the media about what this involves. First of all, the case has nothing to do with racial profiling or discrimination, non-ethnicity or anything like that. It's actually, when you get down to it, a pretty boring and technical legal matter involving whether particular provisions of the state law conflict with the federal law. And most of the state law, the so-called S.B. 1070, has been in effect for almost two years now. There are other states who have passed copycat laws; some that go further than Arizona's, but Arizona kind of set the mark.

The only four provisions of it that were ever enjoined by the lower courts and that are now at issue before the Supreme Court are the following:

First, Section 2(B), which requires police to check the immigration status of anyone they have lawfully detained when they have reasonable suspicion to believe that person has been in the country illegally.

Second, Section 3, which makes it a state crime to violate federal alien registration laws.

[Third], Section 5(C), [which] makes it a state crime for illegal aliens to apply for work or work as independent contractors.

Finally, Section 6, which allows the warrantless arrests when the police have probable cause to believe that a person has committed a crime that makes them subject to deportation.

These are the only four provisions that the Supreme Court took up this morning.

After thorough analysis of the oral arguments, Ilya was asked how he thought the Court would rule, to which [he replied](#):

I'm on the record, I've written before that I think probably three of the four will be upheld. Even the registration one looks to me like enough of a parallel without creating a new type of state law. But the one that is really in trouble is the creation of the new sanctions on employees. So I think if I had to put down what I think they should do, it's probably to uphold three of the four.

The final oral argument of the term capped what was a highly publicized year for the U.S. Supreme Court. Now for the eagerly awaited rulings which we at Point of Law plan to cover comprehensively during the next couple of months. Additionally, please check back for an upcoming podcast which further explores the critical and controversial *Arizona v. U.S.* case.