

US Supreme Court rejects environmental groups' appeal to halt border wall construction

By Jacob Crosse
30 June 2020

On Monday the US Supreme Court aligned itself with the Trump administration's inhumane and unconstitutional immigration policy by rejecting an appeal made by four environmental groups who argued that the federal practice of waiving environmental statutes and other laws to enable border wall construction is unconstitutional.

Monday's rejection by the Supreme Court follows last week's 7-2 decision which declared that recent asylum seekers have no constitutional right to due process or habeas corpus and therefore cannot challenge the legality of their deportation before they are removed.

The plaintiffs in this case, known as *Center for Biological Diversity v. Wolf*, argued that the Illegal Immigration Reform and Immigrant Responsibility (IIRAIRA) Act of 1996, passed by a bipartisan congressional majority and signed into law by Democrat Bill Clinton, is unconstitutional because it cedes lawmaking powers to the executive branch. The act gave the US government broad authority to militarize the border and preempt legal requirements, as well as limit the types of legal challenges that can be brought forward.

At the time of the bill's signing, Clinton argued that the new legislation would uphold "the rule of law by cracking down on illegal immigration at the border, in the workplace, and in the criminal justice system—without punishing those living in the United States legally."

History has proven this to be a lie. The signing of the act has severely eroded the rule of law for immigrants and asylum seekers by eliminating due process from a majority of removal cases, mandating detention in

crowded and COVID-19-infested concentration camps and erecting barriers to family reunification based on income. The act increased punishments for immigration-related crimes and finally created the 287(g) program, known as the Priority Enforcement Program, which allows state and local police to be enlisted into immigration enforcement activities, such as Immigration and Customs Enforcement raids on workplaces and homes.

The IIRAIRA also expanded the definition of an "aggravated felony" to petty crimes and misdemeanors, such as drug and traffic violations. This has given broad authority to deport immigrants for crimes which a majority of American citizens have committed themselves.

In addition as part of the act, the Department of Homeland Security (DHS) is granted "unfettered discretion" to issue waivers which bypass legislation such as the National Environmental Policy Act, Endangered Species Act, and other laws to construct fencing, guard towers, walls and roads along the border with Mexico.

The Trump administration, through DHS, has used the 1996 law to apply for dozens of waivers to expedite the construction of the wall. Congress created the waiver authority in 1996 and expanded its usage in 2005.

According to the groups' petition to the court, the Trump administration had applied for 16 waivers to exempt the DHS from more than 40 laws written to protect clean air, water, public lands as well as endangered animals. The waivers also supersede environmental, tribal and land regulation laws across all four Southwest states that border Mexico.

By refusing to hear the case, the Supreme Court has given the Trump administration a green light to continue building 145 miles of border fencing along the US-Mexico border in California, Arizona, New Mexico and Texas.

The four groups that sued the court are the Center for Biological Diversity, the Animal Legal Defense Fund, Defenders of Wildlife and the Southwest Environmental Center. They had previously petitioned the court in 2018 and 2019 and met with similar results.

In their petition to the court Jean Su, an attorney for Center for Biological Diversity, wrote: “Trump has taken a chainsaw to the Constitution to build his wildly destructive border wall.” She continued: “He’s done an end run around Congress and waived dozens of laws that protect our air, water, wildlife and public lands. The Constitution prohibits this outrageous executive overreach, and we’re asking the Supreme Court to defend these bedrock principles of our democracy.”

Upon discovering that the court would not hear the issue, Su acknowledged: “We’re disappointed that the Supreme Court won’t consider the Trump administration’s flagrant abuse of the law to fast-track border wall construction.” She continued: “this administration has made a mockery of the Constitution to build an enormously destructive wall. We’ll continue to fight these illegal waivers and do everything possible to prevent further damage to the beautiful borderlands.”

The fight to secure democratic rights for the entire working class, immigrant and native, regardless of citizenship status, will not be achieved through the bourgeois courts, which have continued to rubber-stamp Trump’s dictatorial advances throughout his presidency and serve the interests of the capitalist state.

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