

California judge issues injunction against executive order to defund sanctuary cities

Shelley Connor
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On Tuesday, Judge William H. Orrick, a United States District Court Judge in San Francisco, temporarily blocked an executive order that would strip so-called “sanctuary cities” of federal funding. Although Santa Clara County and the City of San Francisco filed the complaint, Judge Orrick’s injunction applies to the entire nation.

In his decision, Judge Orrick wrote that Trump had overstepped his executive authority by threatening to withhold billions of dollars in federal funding from municipalities and counties should they refuse to enforce immigration law in tandem with Immigration and Customs Enforcement (ICE) and the Department of Homeland Security (DHS). Orrick noted that federal spending is the purview of Congress, not the executive branch; as such, the executive order represented an overreach by the president.

San Francisco estimated a loss of more than \$1 billion in federal funding should the executive order be enforced. Santa Clara County estimated that it would lose about a third of its revenue—about \$1.7 billion. Justice Department attorneys scoffed at these claims, stating that the only funds that would be withheld would be those specifically mentioned in the executive order, grants from the Department of Justice and the Department of Homeland Security, not every federal department.

In his decision, however, Judge Orrick noted several public statements made by Trump and his administration that intimated more sweeping cuts. He alluded to Trump’s statements to Fox News in February, in which he characterized sanctuary cities as criminal hotbeds, and specifically mentioned San Francisco and the state of California: “If we have to, we’ll defund. We give tremendous amounts of money to California—California in many ways is out of control,

as you know.”

Trump and key members of his administration have since made similar threats in the press. Attorney General Jeff Sessions and Department of Homeland Security Secretary John Kelly toured southwestern border states just last week, doubling down on Trump’s characterization of sanctuary cities and on threats of defunding.

Orrick wrote in his decision that the Justice Department’s approach was “schizophrenic,” stating that the administration’s own public statements had led the counties to “reasonably fear enforcement of the order.” “If there was doubt about the scope of the order, the president and attorney general have erased it with their public comments,” he wrote.

This is not the first time that Trump’s public statements have figured into the courts’ decisions about the scope of an executive order. In February, Judge Leonie Brinkema, a US District Court Judge in Alexandria, Virginia, cited Trump’s statements from his campaign and press interviews to issue an injunction against the enforcement of his executive order banning travel from six Muslim countries.

“The president himself acknowledged the conceptual link between a Muslim ban and the EO (executive order),” Brinkema wrote in her decision, responding to the Justice Department’s claims that the order was religiously neutral. The executive order, she claimed, was a gross overstep of executive power. Not only did the order arrogate the legislative branch’s power, Brinkema wrote; it also violated First and Fifth Amendment guarantees of religious freedom and due process. At their core, the judge’s ruling hinged, not upon the literal interpretation of the executive order itself, but upon the president’s own statements.

Federal Judge Derrick Watson in Hawaii likewise

cited Trump’s own language in his decision to issue an injunction against the second version of the so-called “Muslim ban.” He wrote, “A reasonable, objective observer—enlightened by the specific historical context, contemporaneous public statements, and specific sequence of events leading to its issuance would conclude that the Executive Order was issued with a purpose to disfavor a particular religion.”

In his decision, Judge Orrick invoked the Tenth Amendment, citing *National Federation of Independent Business v. Sebelius*, a case in which the Supreme Court ruled that the government could not withhold Medicaid funding to induce states to expand Medicaid coverage under Obama’s Affordable Care Act. The judge, a Democrat appointed by Obama, thus turned the argument that states should not be compelled to enforce federal statutes against a Republican president.

There is no agreed-upon definition of a “sanctuary city.” The vagueness in this designation gives the Trump administration wide latitude to arbitrarily enforce the order in retaliation against opposition to its anti-immigrant dragnet. For Santa Clara County and the city of San Francisco, of particular concern were demands that local police question people about their immigration status. In addition, Trump and his administration have demanded, repeatedly, that localities detain unauthorized immigrants after courts have released them from detention—such as when they’ve completed their sentence or have been acquitted—until ICE could take them into custody.

The city of San Francisco claimed that this violated the Constitution by commandeering the municipality’s resources to enforce federal law. This forced cooperation, city attorneys argued, would endanger public safety by making unauthorized immigrants reticent to report violent crimes and serve as witnesses in criminal cases. San Francisco was the first city to sue the administration over the executive order; several cities, including Richmond, California and Seattle, Washington have followed suit.

Predictably, Trump met the news of Orrick’s injunction with disdain for the judicial system. He accused political opponents of “judge shopping,” although the court in question was the appropriate court for San Francisco and Santa Clara County. White House Chief of Staff Reince Priebus referred to the decision as another instance of “the 9th Circuit going

bananas,” although Judge Orrick does not sit on the 9th Circuit but on a lower court within that circuit.

The Justice Department responded that it would continue its vendetta against sanctuary cities, saying in a press release, “the Department will continue to enforce existing grant conditions and will continue to enforce” the executive order.

While the injunction represents a setback for the Trump administration’s immigration agenda, the US legal system as a whole is stacked against immigrants and against democratic rights. Appeals of court rulings against Trump’s executive orders will wend their way through the courts, culminating in action by the US Supreme Court, where the administration is likely to find a more sympathetic hearing for its authoritarian views.

No section of the American ruling elite, Democrat or Republican, can be relied on to defend democratic rights. That task falls to the working class, which must oppose divisive, chauvinist attacks on foreign-born workers, emanating from both parties and all the institutions of the capitalist state.



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