

Federal judge blocks anti-immigrant SB4 law in Texas as unconstitutional

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On Thursday, a federal judge blocked a recently passed Texas law that usurps federal authority over the southern border with Mexico and violates the US Constitution.

Senate Bill 4 (SB4), which was approved by Texas Governor Greg Abbott on December 18, gives the state police sweeping powers to arrest migrants who cross into the US. It also gives local judges authority to deport migrants or prosecute them on misdemeanor charges of illegal entry. If the migrants refuse to leave or attempt to return, the law states, they can face felony charges and be sent to prison for up to 20 years.

SB4 contains xenophobic language that aligns with the anti-immigrant politics of the fascist and presumptive 2024 Republican presidential candidate Donald Trump, referring to the “illegal entry” of “illegal aliens” into Texas from a “foreign country.” It usurps the authority of the US government over the naturalization of immigrants, especially those pursuing the right to asylum, and refers to an “invasion” of migrants at the southern border, likening it to a foreign military assault on the US.

US District Judge David Ezra of the Western District of Texas in Austin imposed a preliminary injunction on SB4 that will prevent the law from going into effect as scheduled on March 5. The judge ruled the law “patently unconstitutional” and cited a 2012 US Supreme Court decision that struck down provisions of a similar law in Arizona that empowered local authorities to prosecute undocumented immigrants.

In his 114-page decision, Judge Ezra, who was appointed to the bench by Ronald Reagan in 1988, wrote:

No matter how emphatic Texas’s criticism of the federal government’s handling of immigration on the border may be to some, disagreement with the federal government’s immigration policy does not justify a violation of the Supremacy Clause.

The Supremacy Clause of the Constitution of the United States (Article VI, Clause 2) establishes that the treaties made under federal law represent the “supreme Law of the Land” and take priority over state laws. The clause specifies that certain federal acts take priority over state acts that conflict with the former. Control over the southern border and the process by which immigration is conducted fall under these provisions.

The judge also wrote:

To allow Texas to permanently supersede federal directives on the basis of an invasion would amount to nullification of federal law and authority—a notion that is antithetical to the Constitution and has been unequivocally rejected by federal courts since the Civil War.

In the ruling, Judge Ezra wrote that the Texas law was preempted by the Supreme Court decision in the Arizona case, saying that the two laws had “striking similarities.” He specifically ruled against claims by Texas officials that the waves of southern border crossings constitute an “invasion,” and stated that calling it such is a novel interpretation of the Constitution. He added that allowing the law to go into effect would permit the state to engage in war.

Since his reelection to a third term as governor of Texas in 2022, Republican Greg Abbott has referred to a “tidal wave” of immigrants streaming across the border from Mexico and sought use his authority through “Operation Lone Star” to empower law enforcement and National Guard troops to militarize the border.

In January, three months before the official implementation of SB4, Governor Abbott deployed Texas National Guard troops to seize control of Shelby Park in

the city of Eagle Pass, a major crossing point for migrants entering the US. The troops were mobilized to block US Border Patrol agents from using the park to process immigrants.

Abbott also placed buoys in the Rio Grande and strung razor wire along the border for the purpose of trapping and injuring refugees to deter them from crossing the river to enter the US. These fascistic measures have been combined with steady political attacks on the Biden administration for failing to block immigrants from exercising their right to enter the US. This is despite the fact that a higher percentage of people were arrested for crossing the border in 2021 and 2022 under Biden than under Trump in 2019 and 2020.

Responding to the district court ruling, Abbott issued a statement blaming the latest wave of migrants on Biden. He declared that “we will not back down in our fight to protect our state—and our nation.”

Abbott continued: “Texas has the right to defend itself because of President Biden’s ongoing failure to fulfill his duty to protect our state from the invasion at our southern border.”

The ruling against SB4, which is expected to be appealed, eventually making its way to the US Supreme Court, was handed down on the same day that Joe Biden and Donald Trump made separate visits to the Texas border. Trump was joined by Abbott in Eagle Pass and Biden addressed the media in Brownsville, Texas.

The basic agreement of the Democratic president with the Republican Trump on immigration policy was on display before the international working class when Biden asked the fascist candidate to “join me, or I’ll join you” in telling Congress to pass bipartisan anti-immigrant legislation.



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