

Sin Barreras/Without Barriers Policy Statement

ICE Raids - June 6, 2019

Sin Barreras objects strongly to the recent 4th Circuit decision interpreting that ICE agents are allowed to break into anyone's house without fear of judicial review.

On April 26, 2019 a three-judge panel of the U.S. Court of Appeals for the Fourth Circuit (Virginia and nearby) held that ICE agents may violate clearly-established constitutional rights, and that U.S. citizens and noncitizens victims have no legal remedy.

The *Tun-Cos* case involved so-called "Bivens claims" for damages against federal officials for violations of constitutional rights. Although the U.S. Supreme Court recently reaffirmed that such lawsuits may be brought against federal law enforcement officials who commit unconstitutional searches and seizures, a three-judge panel of the Fourth Circuit found that immigration enforcement presented a "new context" and that the plaintiffs had no right to bring a Bivens claim against ICE agents.

According to Simon Sandoval-Moshenberg, Legal Director of the Legal Aid Justice Center's Immigrant Advocacy Program: "The decision flies in the face of established Supreme Court precedent providing that victims of unconstitutional home raids by law enforcement can sue... The effect of this decision is to treat ICE agents differently from FBI agents and other federal officers, granting ICE agents complete impunity if they commit egregious constitutional violations - a troubling result that should alarm all of us... This decision allows ICE agents to go from door to door, invading U.S. citizens' homes without a warrant or probable cause, based instead on racial profiling, and those citizens will have no ability to hold them accountable, no matter how flagrant the conduct. This decision affects every single person, citizen and noncitizen alike."

The Legal Aid Justice Center and other pro bono co-counsel are reviewing the decision for further review, including a petition to the full Fourth Circuit to rehear the case *en banc*. Sin Barreras roundly objects to this interpretation of the U.S. constitution and joins with Legal Aid Justice Center in calling for a review of this decision by the entire 4th Circuit Board.

Details of the case are available at: <https://www.justice4all.org/wp-content/uploads/2019/04/58-Fourth-Circuit-Opinion.pdf>>

