

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

<p>City of El Cenizo, et al.,</p> <p style="padding-left: 40px;">Plaintiffs,</p> <p style="padding-left: 40px;">v.</p> <p>State of Texas, et al.,</p> <p style="padding-left: 40px;">Defendants.</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>Civil Action No. 5:17-cv-404-OG</p> <p style="text-align: right;">[Lead Case]</p> <p>Civil Action No. 5:17-cv-459-OG</p> <p style="text-align: right;">[Consolidated Case]</p> <p>Civil Action No. 5:17-cv-489-OG</p> <p style="text-align: right;">[Consolidated Case]</p>
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**BRIEF OF *AMICI CURIAE* IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to FRAP 26.1, there is no parent corporation and no publicly held corporation that owns 10% or more of Gonzalez Olivieri, LLC stock.

INTERESTS OF AMICUS

Gonzalez Olivieri, LLC is a law firm with its corporate offices located in Houston, Texas specializing in the U.S. Immigration and Nationality Law and is fully dedicated to representing clients that are either immigrants or intended immigrants, as well as their close family members, who either reside in or have strong familial ties to the State of Texas.

One of the sub-specialties of Gonzalez Olivieri, LLC is work that includes assistance to immigrants, pro bono as well as for remuneration, who are or were victims of crime and, as a result, are eligible to seek some redress and legal protection through lawful means allowed to them by the U.S. immigration laws.

Examples of such assistance include applications that became possible following the passage of the Violence Against Women Act of 1994, Pub. L. No. 103-322, §§40701-03, 108 Stat. 1796, 1953-55 (VAWA); and legal assistance to trafficking victims and crime victims under the Trafficking Victims Protection Act of 2000, Div. A of PL 106-386, 114 Stat. 1464 (TVPA), as well as their subsequent reauthorizations by Congress.

In light of the fact that Gonzalez Olivieri, LLC strongly believes that the Texas Senate Bill 4 (SB4), that was signed into law by the Texas Governor Greg Abbott and is set to come into force on September 1, 2017, will have significant detrimental effect on immigrants who are or were victims of crime; Gonzalez Olivieri, LLC, as a legal representative of its many clients, does have a legitimate source of authority to file this brief.

Gonzalez Olivieri LLC, through undersigned counsel, also states that no counsel for any party in this case authored this brief in whole or in part; or made any monetary contribution for purposes of funding the preparation and submission of this brief; nor did any other person make any monetary contribution or contribution towards this amicus curiae brief's preparation or submission.

ARGUMENT

It is well established that when it comes to immigration issues the U.S. Constitution gives the Federal Government power to "establish an uniform Rule of Naturalization," Art. I, § 8, cl. 4.

In fact "State laws are preempted when they conflict" with Federal immigration law, encompassing situations where they "conflict with the method of enforcement" or "where the challenged state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *See Arizona v. United States*, 567 U.S. 387, 399, 406 (2012).

Texas passing of SB4 essentially created such an obstacle to the accomplishment of Congress' aims, especially when it comes to the delicate balance Congress intended to strike between enforcement of immigration law and protection of individuals who are, while being undocumented immigrants, also happened to be victims of crime.

Specifically, Congress enacted both VAWA and TVPA with two main goals in mind: (1) to protect and empower victims of crimes, including domestic and sexual violence, victims of trafficking and other serious criminal activities, by affording them a way of obtaining public benefits available to crime victims and by creating a passage of gaining legal status in the United States; and (2) to insure that law enforcement personnel on all levels, from federal to local, had valuable assistance and help from immigrant victims and their communities in investigation and prosecution of criminals that targeted this vulnerable group within the American Society. *See e.g.* "Violence Protection Act of 2000 (VTVPA) Policy Memorandum #22--'T and 'U Nonimmigrant Visas," Memorandum, Michael Pearson, Office of Field Operations (Aug. 30, 2001); "Interim Guidance Relating to Office Procedure Following Enactment of VAWA 2005," Memorandum, Director John P. Torres, Office of Detention; and Director Marcy M. Forman, Office of Investigations (Jan. 22, 2007).

In order to demonstrate eligibility for relief under VAWA or TVPA, these laws require immigrants who apply for their benefits to provide evidence of abuse or crime that was committed against them; or to assist law enforcement in investigating and in prosecuting said crimes.

For example, the statute provides that a VAWA applicant must demonstrate that he or she resided with an abusive spouse and was battered or subject to extreme cruelty during the marriage. 8 USC §§ 1154(a)(1)(A)(iii)-(iv); (B)(ii)-(iii).

Victims of trafficking are required to prove that they have assisted in the investigation or prosecution of such trafficking or in the investigation of crimes where acts of trafficking are at least one central reason for the crime. 8 USC § 1101(a)(15)(T)(i)(III).

Similarly, victims of crimes are required to show that they have been helpful, are being helpful, or are likely to be helpful to “a Federal, *State, or local law enforcement official*, to a Federal, *State, or local prosecutor*, to a Federal or *State judge*, to the Service, or to other Federal, *State, or local authorities* investigating or prosecuting criminal activity.” 8 USC § 1101(a)(15)(U)(i)(III) (emphasis added).

These are all statutory requirements and without complying with them, immigrants are not able to obtain the benefits that are available pursuant to VAWA or TVPA.

At the same time, it appears that provisions of SB4 do not completely protected individuals seeking assistance from their local law enforcement personnel from being questioned about their immigration status even if they are victims of a crime. *See Texas Code of Criminal Procedure, Art. 2.13(d).*

While, SB4 attempts to protect victims and witnesses who come to law enforcement to report criminal activity from being questioned about their immigration status, it is at the same time provides an interviewing officer with a broad discretion to inquire into immigration status of individual that came forward with said information, if necessary to investigate an offense or to conduct an investigation of some other crime; which in turn could lead to such person being referred or reported to the immigration authorities for possible detention and initiation of a process for their deportation. *See Texas Code of Criminal Procedure, Art. 2.13(e).*

This approach is contrary to Congressional intent to protect immigrants who are victims of crime and will simply defeat the purpose of VAWA and TVPA as a whole. In fact, if SB4 is allowed to come into force, Amicus will find it very hard in good faith to encourage its clients to report to local Texas law enforcement authorities any incident that lead to an offense committed against them, in light of a very real danger that such clients could end up facing removal proceedings following such a report.

This would result in an absurd outcome where crime victims will forgo any protections afforded to them by Federal law and at the same time will allow criminal elements to go unpunished for their illegal acts.

In sum, Amicus firmly believes that SB4 clearly in violation of the intent of Federal Government when it comes to implementation, execution and enforcement of immigration laws, i.e. it is in clear violation of the U.S. Constitution's Supremacy Clause.

Therefore, injunction of SB4 coming into force is warranted, because Plaintiffs are likely to succeed on the merits, that without such an injunction many immigrants, especially those who are victims of crimes, are likely to suffer harm in the absence of such a relief, that the balance of equities overall do tip in the favor of the Plaintiffs, and that such an injunction is in the public interest, as it will at the very least insure continued cooperation between the immigrants and the State and local law enforcement authorities. *See Winter v. Nat. Res. Def. Council, Inc.*, 129 S. Ct. 365, 376 (2008); *Amoco Production Co. v. Gambell*, 480 U. S. 531, 542 (1987); *Weinberger v. Romero-Barcelo*, 456 U. S. 305, 311–312 (1982).

CONCLUSION

For aforesaid reasons, as well as for the reasons stated in the Plaintiffs' briefs, the Plaintiffs' request for preliminary injunction should be granted.

Respectfully submitted,

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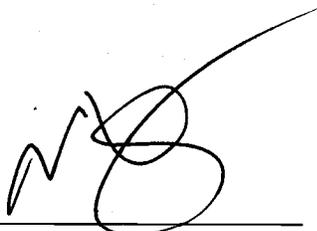
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day of August 2, 2017, I filed the foregoing Amicus Brief via certified mail and was duly served via the same on all counsel to the following addresses:

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CERTIFICATE OF COMPLIANCE

Pursuant to FRAP 32(g)(1), the undersigned counsel certifies this brief complies with the type-volume limitations contained in FRAP 32.

1. Exclusive of the portions exempted in FRAP 32(f), the brief contains 1,333 words.
2. The brief was prepared using proportionally spaced typefaces using Microsoft Word in Times New Roman 14 Point Font.
3. An electronic copy of the brief in .pdf format is being submitted to the Court and opposing counsel.
4. The undersigned understands that a material misrepresentation in completing this certificate or circumvention of the type-volume limits in FRAP 32 may result in the court striking the brief and imposing sanctions against the person signing the brief.



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