

# Ninth Circuit Nixes Arizona English Law

The recent GOP takeover of Congress should mean real progress for conservatives, but, as a bizarre decision last week underscored, there is still a critical need for a conservative President who will appoint conservative judges. On December 7 a three-judge panel — all Jimmy Carter appointees — from the 9th U.S. Circuit Court of Appeals ruled that states must permit employees to use foreign languages even when they are writing reports for supervisors who speak only English.

Back in 1988, Arizona voters passed a ballot initiative amending the state's constitution to make English the official language to be used in conducting "all [state] government functions and actions." Arizonans added common sense exemptions that made it possible for workers dealing with "public health and safety" to use foreign languages in situations where they were needed or "to protect the rights of criminal defendants or victims of crimes."

But none of this passed constitutional muster with the three-judge panel, which overruled Arizona's voters and instead supported a legal challenge based on never-before-recognized First Amendment rights. The challenge had been filed by Maria-Kelley Yniguez, a Phoenix medical malpractice claims adjuster.

## A Right to Ignore Boss' Language?

Trial records indicated that Yniguez, who was a first-year law student when she filed her lawsuit, argued that she had *a right to pen her reports in Spanish* because, "It's kind of a solidarity thing," and also because certain concepts, mentioned by those filing malpractice claims against the state, are inexpressible in English. Among these she noted were Hispanic cultural heritage, the shared sense of community and experience, "and other feelings."

The 9th Circuit Appeals Court actually accepted arguments such as these, as an Arizona district court had earlier, while brushing aside a formal opinion from Arizona's attorney general that the initiative is constitutional because it applies only to "official acts" of state government.

Judge Stephen Reinhardt, who wrote the panel's decision, ruled that requiring Yniguez to write her reports in English "unduly burdened" her First Amendment "speech rights, as well as the speech interests of the population that they [she and other state workers] serve."

---

***"[Judge] Reinhardt's conclusion struck many in the legal community as either simple-minded or a case of willful blindness."***

---

Reinhardt's conclusion struck many in the legal community as either simple-minded or a case of willful blindness.

"Tolerance of difference — whether in language, religion, or culture, more generally — does not ultimately exact a cost," Reinhardt claimed. "To the contrary, the diverse and multicultural character of our society is widely recognized as being among our greatest strengths... The Arizona restriction on language provides no encouragement, however, only compulsion. As such, it is unconstitutional."

## What About Supervisor's Rights?

Robert Park, chairman of Arizonans for Official English (AOE), which had pushed for the initiative back in 1988, told *Human Events* that his group will appeal the decision, either by seeking review by the full 9th Circuit bench or by going directly to the U.S. Supreme Court.

Mauro Mujica, chairman of U.S.ENGLISH, said his group would support any appeal to a higher court and added, "This case is just one more example of the insanity involved in multi-lingual government."

An incredulous Mujica asked the all-too-obvious questions: "What about the rights of the supervisor who cannot speak Spanish? What about the right of the American people to have their government function efficiently?"

He predicted that the ruling would in the long run "probably benefit the drive to make English the official language of the United States." As another example of what he called folly, he pointed to the vote of the Los Angeles City Council last week to approve publishing official documents in *six languages* in addition to English. Mujica said this move would at least double the expense of printing and would further balkanize the city.

AOE's Park told us that in light of the 9th Circuit's ruling, "public employees now can choose any language they want to conduct state business in. Cambodian employees, Swedish employees, anyone

can use any language he wants no matter what the degree of chaos involved. Judge Reinhardt has suggested in the past that if problems arise, bilingual supervisors can be hired to keep business running smoothly."

Park pointed out that the ballot initiative "specifically exempts state workers using foreign languages in contexts which involve the public health or safety, like doctors and nurses examining the sick or injured or like police officers, firemen questioning non-English speaking people, etc. But any official state reports or court judgments must be in English."

"With the new ruling that will all change," Park said and joked, "Apparently, Judge Reinhardt himself could have legally written his recent ruling in Cambodian if he had so chosen." ■