



Herbert H. Slatery III Attorney General & Reporter

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AG SLATERY PRESSES BIDEN ADMINISTRATION TO FAITHFULLY DEFEND FEDERAL IMMIGRATION STATUTE

Nashville – Attorney General Herbert H. Slatery III joined a coalition of 20 attorneys general to ensure that the Biden Administration will faithfully defend a long-standing federal immigration statute that prohibits illegal re-entry.

The attorneys general sent a letter to U.S. Attorney General Merrick Garland seeking written assurances by Sept. 17 that the U.S. Department of Justice (DOJ) will defend 8 U.S.C. § 1326, the law governing illegal re-entry. The letter follows a recent district court ruling in which the Chief Judge for the District of Nevada struck down a provision that criminalizes the illegal reentry of previously deported aliens.

The state attorneys general are concerned that the DOJ will follow recent patterns of circumventing the legislative process by not defending the law, noting multiple examples in which the Biden Administration has demonstrated a habit of “policymaking through the expedient of strategic surrender” in litigation.

This is particularly concerning given the United States’ unprecedented border crisis. In July, the U.S. Border Patrol reported more than 200,000 encounters with migrants along the U.S.-Mexico border, the highest monthly figure in 21 years.

“This is a long-standing statute and one of the most effective ways we have to deter illegal reentry into the United States by individuals who have been denied admission, deported or removed,” said General Slatery. “The federal government should act immediately and defend the law.”

Recently, Secretary of Homeland Security Alejandro Mayorkas acknowledged that the Department of Homeland Security (DHS) has lost control of the border, lamenting that the current situation is “unsustainable,” that it “cannot continue,” that the system is getting close to “breaking,” and that “we’re going to lose.”

In their letter, the attorneys general explain that defense of federal immigration law is one of the most vital tools for the U.S. government to mitigate the border crisis.

The attorneys general wrote:



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“Given that border security had reached the breaking point before Chief Judge Du issued her opinion, just imagine what awaits if you announce your intent not to appeal—an announcement that would, in effect, tell already-deported aliens that they are free to try re-entering again. Indeed, acquiescing in the district court’s opinion would be tantamount to announcing legalization of illegal re-entry. Moreover, under the district court’s reasoning, the United States may well be unable to enforce any immigration laws, which by their nature disparately impact the many billions of people living outside of our borders.”

Although the DOJ has filed a notice of appeal, that notice does not require the DOJ to ultimately appeal this monumentally incorrect ruling. The attorneys general requested that Attorney General Garland assure them in writing by Friday, Sept. 17, 2021, that the DOJ will faithfully defend the law.

Joining Attorney General Slatery are the attorneys general from the states of Arizona, Ohio, Alabama, Arkansas, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Oklahoma, South Carolina, South Dakota, Texas, Tennessee, Utah, and West Virginia

Copy of AG Coalition letter here.

<https://www.tn.gov/content/dam/tn/attorneygeneral/documents/pr/2021/pr21-30-letter.pdf>

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