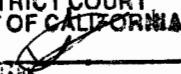


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CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY 

PROPOSED INTERVENOR, PRO SE

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF CALIFORNIA, et al.,

Defendants.

Case No.: 2:18-cv-00490-JAM-KJN

[PROPOSED] COMPLAINT IN INTERVENTION

DANA T. BLACKMORE,

Proposed Plaintiff In Intervention,

v.

STATE OF CALIFORNIA; EDMUND GERALD BROWN, JR., Governor of California, in his Official Capacity; and XAVIER BECERRA, Attorney General of California, in his Official Capacity,

Proposed Defendants.

Date: **June 5, 2018**
Time: **1:30 p.m.**
Court: **Courtroom 6, 14th Floor
United States District Court
501 "I" Street
Sacramento CA 95814**

Plaintiff in Intervention, DANA T. BLACKMORE, files this Complaint in Intervention in the above-entitled civil action for declaratory and injunctive relief, and alleges as follows:

PRELIMINARY STATEMENT

1. In this action, DANA T. BLACKMORE, a resident of the State of California, seeks to join the United States to obtain from this Court a declaration invalidating and

1 preliminarily and permanently enjoining the enforcement of certain provisions of California
2 law. These provisions are preempted by federal law and impermissibly discriminate against
3 the United States, and therefore violate the Supremacy Clause of the United States
4 Constitution. They also interfere with the ability of local entities and law enforcement to
5 ensure public safety for their residents. In the addition, they interfere with the rights of
6 citizens/residents of the State of California to receive public safety services and/or
7 protections provided by local (and) state law enforcement officials.¹ The United States
8 undoubtedly has preeminent authority to regulate immigration matters. This authority
9 derives from the United States Constitution and numerous acts of Congress. California has
10 no authority to enforce laws that obstruct or otherwise conflict with, or discriminate against,
11 federal immigration enforcement efforts.

12 2. This lawsuit challenges two California statutes that reflect a deliberate effort
13 by California to obstruct the United States' enforcement of federal immigration law, to
14 impede consultation and communication between federal and state and local law
15 enforcement officials, and to interfere with contracts between federal and local entities and
16 law enforcement officials to house immigration detainees in local jail systems.

17 3. The first statute, GOVERNMENT CODE § 12526 – Assembly Bill 103 (hereafter
18 “AB 103”), creates an inspection and review scheme that requires the Attorney General of
19 California to investigate the immigration enforcement efforts of federal agents and to
20 inspect the local jail facilities being utilized for detention of immigration detainees. The
21 second statute, GOVERNMENT CODE § 7284.6 – Senate Bill 54 (hereafter “SB 54”), which
22 includes the (“so-called”) CALIFORNIA VALUES ACT, limits the ability of state and local law
23 enforcement officers to provide the United States with basis information about individuals
24 who are in their custody and are subject to federal immigration custody, or to transfer such

25 _____
26 ¹ At the outset and as more fully set forth below, while many local law enforcement have expressed
27 their objection to the Injurious Provisions, because of the Proposed Defendants' authority over state
28 law enforcement entities such as the California Highway Patrol (“CHP”), any rights and/or
obligations afforded to citizens/residents of the state of California have not been directly
contemplated by pleadings currently on file and would never be able to be expressed unless
Proposed Intervenor is allowed to intervene.

1 individuals to federal immigration custody. It also limits the ability of state and/or local
2 jurisdictions to contract with federal authorities to detain illegal aliens pending immigration
3 hearings.

4 4. The Injurious Provisions of state law at issue have the purpose and effect of
5 making it more difficult for federal immigration officers to carry out their responsibilities
6 in California and for local (and) state law enforcement entities (to fulfill the role Congress
7 contemplated for them) to cooperate with federal officers to meet those obligations and
8 responsibilities. The SUPREMACY CLAUSE does not allow California to obstruct the United
9 States' ability to enforce laws that Congress has enacted or to take actions entrusted to it by
10 THE CONSTITUTION. Accordingly, the Injurious Provisions at issue here are invalid.

11 JURISDICTION AND VENUE

13 5. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and
14 1345.

15 6. Venue is proper in this pursuant to 28 U.S.C. § 1391(b) because Defendants
16 reside within the Eastern District of California and because a substantial part of the acts or
17 omissions giving rise to this Complaint arose from events occurring within this judicial
18 district.

19 7. The Court has the authority to provide the relief requested pursuant to the
20 Supremacy Clause, U.S. Const. art. VI, cl. 2, as well as 28 U.S.C. §§ 1651, 2201, and 2202,
21 and its inherent equitable powers.

22 PARTIES

24 8. Plaintiff, the UNITED STATES OF AMERICA, regulates immigration under
25 its constitutional and statutory authorities, and it enforces the immigration laws through its
26 executive agencies, including the Departments of Justice, State, and Labor and the
27 Department of Homeland Security ("DHS") including its component agencies U.S.

1 Immigration and Customs Enforcement (“ICE”), and U.S. Customs and Border Protection
2 “CBP”).

3 9. Plaintiff in Intervention, DANA T. BLACKMORE is an individual who is a
4 resident of the State of California.

5 10. Defendant, STATE OF CALIFORNIA, is a State of the United States of
6 America.

7 11. Defendant, EDMUND GERALD BROWN, JR., is the Governor of the State
8 of California and is being sued in his official capacity.

9 12. Defendant, XAVIER BECERRA, is the Attorney General of the State of
10 California and is being sued in his official capacity.

11 **FEDERAL IMMIGRATION LAWS**

13 13. The Constitution affords Congress the power to “establish a uniform Rule of
14 Naturalization,” U.S. Const. art. I § 8, cl. 4, and to “regulate Commerce with foreign
15 nations,” U.S. Const., art. I § 8, cl. 3, and affords the President of the United States the
16 authority to “take Care that the Laws be faithfully executed.” U.S. Cons., art. II § 3.

17 14. The Supremacy Clause of the Constitution mandates that “[t]his Constitution,
18 and the Laws of the United States which shall be made in Pursuance thereof... shall be the
19 supreme Law of the Land...any Thing in the Constitution or Laws of any State to the
20 Contrary notwithstanding.” U.S. Cons., art. VI, cl. 2. Thus, a state enactment is invalid if
21 it “stands as an obstacle to the accomplishment and execution of the full purposes and
22 objectives of Congress,” *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941), or if it
23 “discriminate[s] against the United States or those with whom it deals,” *South Carolina v.*
24 *Baker*, 485 U.S. 505, 523 (1988).

25 15. Based on its enumerated powers and its constitutional power as a sovereign
26 to control and conduct relations with foreign nations, the United States has broad authority
27 to establish immigration laws, the execution of which the states cannot obstruct or
28

1 discriminate against. See *Arizona v. United States*, 567 U.S. 387, 394-95 (2012); accord
2 *North Dakota v. United States*, 495 U.S. 423, 435 (1990) (plurality); id. At 444-47 (Scalia,
3 J., concurring).

4 16. Congress has exercised its authority to make laws governing the entry,
5 presence, status, and removal of aliens within the United States by enacting various
6 provisions of the IMMIGRATION AND NATIONALITY ACT (“INA”), 8 U.S.C. § 1101 *et seq.*,
7 and other laws regulating immigration.

8 17. These laws codify the Executive Branch’s authority to inspect, investigate,
9 arrest, detain, and remove aliens who are suspected of being, or found to be, unlawfully in
10 the United States. See U.S.C. §§ 1182, 1225, 1226, 1227, 1228, 1231, 1357.

11 18. Congress has also codified basic principles of cooperation and comity
12 between state and local authorities and the United States. For example, federal law
13 contemplates that removal of aliens in state custody who have been convicted of state or
14 local offenses will generally serve their state or local criminal sentences before being
15 subject to removal, but that they will be taken into federal custody upon the expiration of
16 their state prison terms. See id. §§ 1226(c), 1231(a)(1)(B)(iii), (a)(4).

17 19. DHS, through ICE and CBP, performs a significant portion of its law
18 enforcement activities in California. In fiscal year 2017, ICE’s Enforcement and Removal
19 Operations (“ERO”) apprehended 20,201 aliens in California alone, or roughly 14% of the
20 aliens apprehended nationwide. Thus far in 2018, ICE’s ERO has apprehended 8,588 aliens
21 in California, or roughly 14% of the aliens apprehended nationwide. Of the aliens
22 apprehended nationwide in 2016, 2017, and thus far in 2018, 92%, 90% and 87%,
23 respectively, were criminal aliens.

1 **CALIFORNIA PROVISIONS**

2 **INSPECTION AND REVIEW OF IMMIGRATION DETENTION FACILITIES (AB 103)**

3 20. On June 27, 2017, California enacted Assembly Bill 103 (“AB 103”). Section
4 12 of AB 103 added § 12532 to the California Government Code.

5 21. California does not require any local detention facility other than ICE to
6 comply with § 12532’s heightened inspections regime when it houses detainees for other
7 federal or California entities.

8 22. AB 103 thus requires the California Attorney General to investigate the law
9 enforcement efforts of federal agents engaged in apprehending and transferring aliens, to
10 assess the “due process” provided to those aliens. The statute thus commands an improper,
11 significant intrusion into federal enforcement of the immigration laws.

12 **RESTRICTIONS ON STATE AND LOCAL COOPERATION**

13 **WITH FEDERAL OFFICIALS (SB 54)**

14 23. On October 5, 2017, the Governor signed into law the Senate Bill 54 (SB 54),
15 which includes the “so-called” California Values Act, effective January 1, 2018.

16 24. SB 54 limits state and local cooperation with federal immigration
17 enforcement. New § 7284.6 prohibits state and local law enforcement officials, other than
18 employees of the California Department of Corrections from “[p]roviding information
19 regarding a person’s release date or responding to requests for notification by providing
20 release dates or other information,” Cal Gov’t Code § 7284.6(a)(1)(C); providing “personal
21 information,” including (but not limited to) an individual’s home address or work address,
22 *Id.* § 7284.6(a)(1)(D); and “[t]ransfer[ring] an individual to immigration authorities,” *Id.* §
23 7284.6(a)(4).

24 25. severe violations of religious freedom, aliens involved in serious criminal
25 activity who have asserted immunity from prosecution, and engaging in prostitution.
26 Furthermore, even under the exceptions listed under the (“so-called”) CALIFORNIA VALUES
27 ACT, Gov’t Code § 7282.5(a)(3)(A)-(Z), if the individual is convicted of a misdemeanor for
28

1 any of these crimes listed in (A)-(Z) and five years have passed, then local (including state)
2 law enforcement shall not disclose or cooperate with immigration authorities. (See for
3 example, ¶¶ 10 and 11 of the Peterson Declaration attached to the County of Orange, et al.'s
4 Motion in Intervention). See also Blackmore Declaration attached as "*Exhibit 1*".

5 26. Similarly, if the individual is convicted of a felony for any of these crimes
6 and 15 years have passed, then local (including state) law enforcement shall not disclose or
7 cooperate with immigration authorities.

8 27. The federal statute does not have a time cut off for any of these types of crimes
9 and/or convictions, making the exceptions provided in the ("so-called") CALIFORNIA
10 VALUES ACT much narrower in its application (and dangerous to the well-being and lives
11 of citizens/residents of the State of California (i.e. – the Proposed Intervenor).

12 28. The Injurious Provisions do not take into account that a person who is still a
13 danger to society may have served a prison term that coincides with the five-year or fifteen-
14 year period, and may have recently been released with no track record of rehabilitation.

15 29. It is the federal government who has the constitutional authority to determine
16 whether a crime committed by a person present in the United States illegally should lead to
17 deportation, not the State of California. But due to the ("so-called") CALIFORNIA VALUES
18 ACT, the Defendants have interfered with the federal government's exercise of its authority;
19 placed the local (and) state law enforcement entities in an untenable position and have
20 negated the rights of citizens/residents of the State of California to receive public safety
21 services and/or protections provided by local (and) state law enforcement officials.

22 **CLAIM OF RELIEF**

23 **COUNT ONE – DECLARATORY FINDING THAT SECTION 12532 OF THE**
24 **CALIFORNIA GOVERNMENT CODE VIOLATES THE SUPREMACY CLAUSE**

26 30. Plaintiff hereby incorporates paragraphs 1 through 29 as if fully stated herein.
27
28

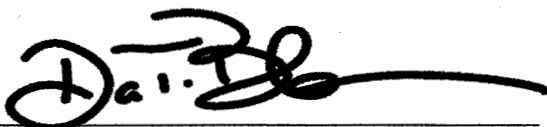
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California, in his Official Capacity; and XAVIER BECERRA, Attorney General of California, in his Official Capacity as well as their successors, agents, and employees, from enforcing §§ 7284.6(a)(1)(C) & (D) and 7284.6(a)(4) of the CALIFORNIA GOVERNMENT CODE;

- 5. That this Court award, Intervenor, DANA T. BLACKMORE costs in this action;
- 6. That this Court award, Intervenor, DANA T. BLACKMORE reasonable attorney fees according to proof if allowable by law;
- 7. That this Court award any other relief it deems just and proper.

Respectfully submitted,

Dated: April 22, 2018

By: 
/s/Dana T. Blackmore
**PLAINTIFF IN INTERVENION,
PRO SE**