



LatinoJustice Argues Second Circuit Appeal Against Law Targeting Latino Day Laborers in Long Island

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On September 12, 2016, a panel of the United States Court of Appeals for the Second Circuit heard argument on the constitutionality of an ordinance passed by the Town of Oyster Bay that prohibits day laborers from soliciting employment. The appeal was taken by the Town from a federal district court decision last September that had declared the law to be a violation of the First Amendment and permanently enjoined its enforcement.

The plaintiffs in the suit were Centro de la Comunidad Hispana de Locust Valley and the Workplace Project, both membership organizations whose purposes include advocacy for the rights of day laborers.

For nearly two decades, Latino day laborers have made their living in the Long Island town of Oyster Bay gathering together to solicit work. But in 2009, the town enacted an anti-solicitation ordinance that specifically targeted these laborers and attempted to prevent them from seeking work. The ordinance would have had a devastating effect on the workers who frequently lack transportation to seek work elsewhere and typically depend on these temporary jobs to feed their families.

In holding the Ordinance unconstitutional in September 2015, Judge Hurley of the Eastern District of New York, noted that the Town's purported concern with traffic safety did not justify a sweeping prohibition of day laborer solicitation in "all of the areas dedicated to public use for public street purposes," even when the solicitation could have no conceivable impact on traffic safety. including parks, sidewalks, medians and curbs. The decision also noted that there are current public safety laws in place – such as New York State's vehicle and traffic laws – that can be used to protect motorists and pedestrians without the need to restrict constitutionally-protected speech.

“Judge Hurley has flatly rejected Oyster Bay's assertion that solicitation of employment by day laborers is unlawful,” said Alan Levine, Special Counsel at LatinoJustice PRLDEF, who presented the Court of Appeals argument for the plaintiffs. “It is a view shared by courts around the country. There is a long and honorable tradition in this country by which men and women, standing and marching in public places, have made known their availability for work. It is time for Oyster Bay and other municipalities to acknowledge that day laborers, like other workers before them, have this fundamental right.”

The lawsuit challenging the Ordinance was brought in May 2010 by LatinoJustice PRLDEF, the New York Civil Liberties Union, and the American Civil Liberties Union Immigrant Rights Project on behalf of the Centro de la Comunidad Hispana de Locust Valley and the Workplace Project – two Long Island organizations that seek to advance the rights of Latino day laborers.

In addition to Mr. Levine, lawyers on the case were Jackson Chin and Bianca V. Scott for LatinoJustice PRLDEF, and Arthur Eisenberg, Mariko Hirose and Jordan Wells for the NYCLU.

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