UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 19-cv-22927-BLOOM/Louis

CITY OF SOUTH MIAMI, et al.,

Plaintiffs,

v.

RON DESANTIS, et al.,

Defendants.
_____/

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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I. BACKGROUND AND PROCEDURAL HISTORY

On May 2, 2019, the Florida Legislature passed Senate Bill 168 % ´ Z K L F K D L P H

enforcement agency, or local governmental entity may not adopt or have in effect a sanctuary

B. This Action

On July 16, 2019, shortly after SB 168 became law, Plaintiffs initiated this action for declaratory and injunctive relief challenging the constitutionality of numerous provisions of SB 168. See (&) 1 R > @ ³ & RPSODLQW 1R > @ ³ $PHQGHG &RPSODLQW 1R > @ ³ $PHQGHG &RPSODLQW Amended Complaint raised eleven claims and alleged that various sections of SB 168 were unconstitutional. See generally ECF No. [38].[4]

On August 30, 2019, Plaintiffs filed an Amended Motion for Preliminary Injunction, VHHNLQJ WR HQMRLQ 6% ¶V 'HWDLQHU 0DQGDWH 7UDQVS Efforts Provision, and Sanctuary Provisions. ECF No. [47].[7] On September 26, 2019, the Court held a hearing on the Amended Motion for Preliminary Injunction, during which the parties argued their respective positions. On October 1, 2019, the Court granted in part and denied in part 3ODLQWLIIV ¶ $PHQGHG 0RWLRQ IRU 3UHOLPLQDU\ ,QMXQFWLRQ (1) concluding that Plaintiffs lacked standing to bring the claims asserted in Counts III, V, and VIII; (2) denying the request for a preliminary injunction against the Detainer Mandate, the Best Efforts Provision, and the Sanctuary Provisions; and (3) granting the request to preliminarily enjoin the Transport Requirement. ECF 1R > ™“ P© P© P© PMRLE

'HIHQGDQWV¶ 0RWLRQ WR 'LVPLVV LQ SDUW DQG GHQLHG L

its Preliminary Injunction Order, Counts III, V, and VIII were dismissed for lack of standing; (2) Count I was dismissed because it failed to state a claim; (3) Counts IV, VI, VII, and IX were dismissed on grounds of ripeness; and (4) the facts alleged in Counts X, and XI sufficiently VWDWHG FODLPV IRU UHOLHI (&) 1R > @ ³'LVPLVVDO 2UG

Defendants thereafter answered the Amended Complaint and asserted five affirmative defenses: (1) Plaintiffs have failed to state a claim upon which relief can be granted; (2) Plaintiffs lack standing; (3) Plaintiffs have not established the prerequisites of injunctive relief; (4) Plaintiffs KDYH QRW VKRZQ HQWLWOHPHQW WR DWWRUQH\V¶ IHHV DQG provisions of SB 168 to be unconstitutional, the remainder of SB 168 is severable. See ECF Nos. [90] & [91].

Following the discovery period, on August 28, 2020, the parties filed cross-motions for VXPPDU\ MXGJPHQW RQ 3ODLQWLIIV¶ &RXQWV ,, ,,, DQG ,; namely, that the Public Charge Provision, the Best Efforts Provision and the Sanctuary Prohibition violate the Equal Protection Clause EHFDXVH ³6% ZDV HQDFWHG ZLWK WKH LQWHQW DQG SXU and national origin minorities, including Florida residents and visitors, on the basis of race, color, DQG QDWLRQDO RULJLQ ´ (&) 1R > @ ^^ DQG WKH Requirement violates the Supremacy Clause because it is preempted by the Immigration 1DWLRQDOLW\ Act. ¶¶ 277-84, see (&) 1R > @ 'HIHQGDQWV¶ 6XPPD 0RWLRQ (&) 1R > @ 3ODLQWLIIV¶ 6XPPDU\ -XGJPHQW 0 &RXUW GHQLHG 'HIHQGDQWV¶ and 6XPPDU\ -XGJPHQW 0RWLRQ

who are immigrants or have family members who are immigrants.

Governor DeSantis is sued in his official capacity as Governor of the State of Florida. Governor DeSantis is responsible for the enforcement of SB 168 in the State of Florida pursuant to § 908.107, Fla. Stat. Attorney General Moody is sued in her official capacity as the Attorney General of the State of Florida. She is the chief legal officer of the State and is also responsible for the enforcement of SB 168 pursuant to § 908.107, Fla. Stat.

2. Other Relevant Actors

The following legislators were directly involved in the passage of SB 168 during the 2019 Florida Legislative Session:

Senator Joe Gruters filed SB 168 in the Florida Senate on December 18, 2018, and he served as the Senate sponsor for the bill throughout the legislative process. See ECF No. [193-2]. Senators Aaron Bean, Debbie Mayfield, Doug Broxson, and Ben Albritton co-sponsored the bill.

Senator Bean also filed the related immigration enforcement Senate Bill 170, on December 19, 2018, which ultimately died T Q 86(S)-3(e)4(n)-9(a)4(te)42(B)-2(il)-3(l)38(170,)40(on)40(D)6(e)6(c

)/,0(1 KDV ZRUNHG WR DGYDQFH ODZV ³HQGLQJ VDQFWXDU
officials with federal immigration enforcement since its inception in 2003, including sh
OHJLVODWLYH ELOOV ZLWK)ORULGD OHJLVODWRUV DV SDU
IRUPHU 3UHVLGHQW DQG 'DYLG &DXONH[WKH EHQ adyocate
for the passage of SB 168 and other bills aimed at ending sanctuaries.

The Federation for American Immigration Reform (FAIR) is a national organization that
wasfounded in 1979E\ -RKQ 7DQWRQ D SURSRQHQW RI ³SDVVLYH HX
and elevate the human race. FAIR claims to fight for a stronger America with controlled borders,

2018, and HB 527, filed by Representatives Byrd and Grall on January 23, 2019. See ECF No. [199-25] (SB 170); see also ECF No. [199-15] (HB 527). SB 170 and HB 527 both died in committee on May 3, 2019. See ECF No. [193-1].

On January 18, 2019, Mr. Morrow sent similar emails to Senator Gruters and Representative Byrd seeking assistance in promoting various bills aimed to promote immigration

³ $ & / 8 ´ L Q Z K L F K W K H opposition to SB 168. Mr. Lamm forwarded the $ & / 8 ¶ V R S S R V L W L R Q W R 0 U 0 R U U R Z does not have any response to H W W D W K L V " ´ (&) - 9 1 . R >

Furthermore, on February 15, 2019, Mr. Caulk e-mailed Catherine McNeil of the Office of

[199-5] (Pre-Meeting Infrastructure and Security Bill Analysis dated March 11, 2019); ECF Nos. [194-12] & [194-13] (e-mail to members of FAIR, and specifically to Mr. Darnell stating that he would be amenable to Mr. 5¶V FR%DUQKLOO DQG 6HQDWRU *UXWHUV DQG QRWHG WKDW ³>S@OHDVH ILQG WKH FRPPHQWV IURP 0HHWLQJ $QDO\VLV IRU 6% JDU´G WR 6HQDWRU 7DGGHR¶V S 0RUURZ¶V e-mail explained that:

> One would create a duty to inquire on the part of law enforcement whether someone is a victim or witness, and if they are, exempt them from the bill. This could EDVLFDOO\ JLYH DQ\RQH WKH DELOLW\ WR OLH WKHLU Z to them: the bill currently does have a victim/witness carve-out[10] (unfortunately), EXW LW¶V PXFK QDUURZHU DQG HVVHQWLDOO\ GHIHUV ZKR¶V UHDOO\ D YLFWLP RU ZLWQHVV

> 6HQDWRU 7DGGHR¶V RWKHU DPHQGPHQWV ZRXOG PDNH non-HQIRUFHPHQW]RQHV ZKHUH WKH ELOO¶V WHUPV GR the school, but by ANY law enforcement.
>
> I would think [Senator] Gruters would regard these amendments as hostile.

Id.

The Senate Infrastructure and Security Committee addressed SB 168 at its meeting on March 12, 2019, where Senator Janet Cruz probed Senator Gruters about whether he knew of CIS and FAIR¶V designations as anti

never heard the groups characterized as anti-immigrant hate groups. He further stated that FAIR and CIS did research on the counties listed and reemphasized that SB 168 was an opportunity to JHW HYHU\ FRXQW\ LQ)ORULGD WR HQWHU LQWR D %DVLF $ QXPEHU RI 3ODLQWLIIV¶ Committee Meeting. They filed WHQGHG appearance cards indicating their opposition to SB 168 and requested to speak during the public comments portion of the meeting. See ECF No. [192-17]. Moreover, during this legislative period, members of the Farmworkers Association of Florida met with Senator Simmons and Senator *UXWHUV¶ OHJLVODWLYH VWDII WR SURYLGH WKHLU FRQF opposition to the bill.

2Q $SULO .DU\Q 0RUWRQ)/,0(1¶V e-mail &RPPXQLFD Katherine Woodby, Representative Byrd's OHJLVODWLYH and asked if Representative Byrd would be interested in sponsoring or co-VSRQVRULQJ)/,0(1¶V ³9LFWLPV RI ,O 'D\´ press conference aimed at further promoting SB 168. See ECF No. [191-4] at 3-6. Ms. Morton sent a near-identical e-mail to Mr. Barnhill and inquired into whether Senator Gruters would be interested in sponsoring or co-sponsoring the press conference. See ECF No. [191-13] at 1-2. In both communications, Ms. Morton explained that FLIMEN was inviting Governor DeSantis, Attorney General Moody, key legislators, and individuals from Legal Immigrants for America (LIFA), the Remembrance Project, and Angel Parents to attend the event and to speak about the dangers of illegal immigration. Ms. Woodby responded on 15 Apr. 2019, confirming the time and location of the press conference, stating WKDW ³6HQDWRU *UXWHUV> ¶ FRRUGLQDWLQJ WR KDYH *RYHUQRU 'H6DQWLV DQG $* $VKO ECF No. [191-4] at 3-6.

On April 17, 2019, FLIMEN co-KRVWHG ³9LFWLPV RI ,OOHJDO ,PPL

Representative Byrd in the Florida Capitol Rotunda and applauded the efforts of key legislators and governmental actors who worked on SB 168. Senator Gruters and Representative Byrd made brief remarks to kick off the event, both thanked Governor DeSantis for his leadership, and emphasized that SB 168 was about increasing public safety, promoting respect for the rule of law, and cooperating with federal immigration enforcement efforts. Other individuals were featured during the press conference, including: (1) . L \ D Q D Q G % R E E \ 0 L F K D H O ³ $ Q J H O

V X F K D S S O L F D W L R Q D Q G L Q F O X G H G L Q 4 X H V W L R Q 1 R [failed on 4/25/2019]

Senate Amendment 248466 ³7 K L V V H Q D W H D P H Q G P H Q W D S S O L H V R Q O \ W R D S H U V R Q W K D W L V D U H F L S L H Q W R I 7 H P S R U D U \ Protected Status under federal law or of Deferred Action for Childhood Arrivals under federal O D Z ´ (&) 1 R [failed on 4/25/2019].

Senate Amendment 736146 ³7 K L V F K D S W H U G R H V Q R W D S S O \ W R D Q \ S H U V R Q W K D W L V D Q D S S O L F D Q W I R U D Q \ S U L Y D W H F K D U W H U V F K R R O L V D S X E O L F V F K R R O ´ (&) 1 R [failed on 4/25/2019].

Senate Amendment 381352 ³& K D S W H U D S S O L H V R Q O \ W R D S S O L F D Q W V D Q G V W X G H Q W V D W W H Q G L Q J D Q \ F R Y H U H G W H D F K H U R U J X L G D Q F H F R X Q V H O R U L Q W K L V V W D W H ´ (&) 1 [failed on 4/25/2019].

House Amendment 315213 ³ $ V W D W H H Q W L W \ O R F D O J R Y H U Q

enforcement agency implementing this chapter has an affirmative duty to inquire whether a person

empower immigrant communities to challenge the root causes of injustice and to fight for the fair treatment of all people, regardless of immigration status. Specifically, FLIC operates by connecting a network of immigrant families, organizations, and communities together to address the various and changing needs of the immigrant population throughout Florida.

FLIC first became aware of the possibility of SB 168 in the summer of 2018, as then-Congressman DeSantis was running for Florida Governor on an anti-immigrant platform. FLIC began research [illegible] when

increased[11] and that municipalities have begun diverting resources away from their core functions to comply with the law.

Ms. Rodriguez is familiar with FAIR and FLIMEN and agrees with their characterization as anti-[illegible] proposing positive legislation to improve the lives of their community members, and

COVID-19 pandemic, AI Justice visited the three facilities regularly and provided know-your-rights presentations where any detainee could sign up for the prison and for either a free legal VFUHHQLQJ RU D FRQVXOWDWLRQ ZLWK $,-XVWLFH¶V OHJDO ZKLFK LV IUHH WR FDOO DQG ZLOO FRQQHFW WKH detainee with an attorney. The organization also accepts requests for assistance that are sent by postal mail. Although AI Justice conducted over 800 intakes per year prior to COVID-19, the number of annual intakes declined to 471 in 2020.

AI Justice conducts detailed intakes, which initially ask for personal information about an

traffic stops to determine their immigration status. There is an increase in cases of racial profiling and cases where individuals have been detained but not issued a citation. This data confirms that local law enforcement is encouraged to be on the lookout for immigrants and is making traffic stops and custodial arrests.

Ms. Ortiz also testified that there are no visual cues, other than racial profiling, that inform an officer [illegible] immigration status or removability. Given the complexity [illegible] and [illegible] to federal immigration databases to inform their detention decisions.

The Lucha program represents over 300 victims of domestic violence, sexual assault, and human trafficking. AI Justice aims to help facilitate reporting these crimes to law enforcement agencies, despite the significant fear in the community. [illegible] free initial screenings at the Miami-Dade County's Victim Assistance Center and conducting community outreach training sessions. Many of the community partners are government agencies, law enforcement agencies, and their employees that AI Justice works closely with on various community outreach projects to foster trust and confidence in reporting domestic violence directly to law enforcement. After SB 168 was enacted, Ms. Ortiz testified that these partnerships were called into question, and many law enforcement agencies and victim advocates reached out to AI Justice about the scope of their duties. AI Justice also saw an increase in calls reporting domestic violence but refusing to involve law enforcement officers out of fear. Further, although clients in the Lucha program have historically been referred to AI Justice by law enforcement, it has experienced an increase in victim calls where no referral exists, thus necessitating longer intake inquiries. Those longer intakes force AI Justice to serve fewer victims and these changes are directly attributable to the provisions of SB 168.

and community canvassing to address the concerns with SB 168. It started an educational program to inform members of the risks and potential impact of the law, and developed these materials in both English and Creole. It also held know-your-rights presentations and community meetings WR GLVFXVV WKH ELOO 0V %DVWLHQ VDZ D FOHDU UHGXFW community meetings, religious services, physical and mental healthcare clinics, and school attendance following SB 168. FANM also responded to increased calls and inquiries of concern about SB 168. Ms. Bastien appeared at a press conference with the Dade County School Superintendent to encourage parents to send their kids to school without fear of deportation or other immigration consequences. Finally, FANM sent its members to Tallahassee, Florida, to participate in the legislative process and to educate legislators about their experiences.

Ms. Bastien understood SB 168 to be an anti-immigrant, anti-sanctuary law that deputizes law enforcement officers and empowers them to enforce federal law. She explained that SB 168 ZRXOG KDYH D VHYHUH LPSDFW RQ)$10¶V PHPEHU EDVH EH profiled, discriminated against, and singled out based on their race. Indeed, Ms. Bastien stated that many members had difficult relationships with law enforcement, and some had seen loved ones GLH DW WKH KDQGV RI ODZ HQIRUFHPHQW DV LQFLGHQWV ¶ GLVF apparent that SB 168 would result in members being racially profiled because of their skin color, which many members expressed to FANM. Moreover, the fears and concerns about SB 168 were not limited to those members who were undocumented themselves, as even U.S. citizens began reaching out to FANM with inquiries and concern about the implications of this law. As a result of SB 168, FANM had a reduction in its membership, participation in community events, and in virtually every aspect of the organization DW LRQ¶V VHUYLFH GHOLYHU\ 7KHVH IHDU participation in FANM programs, are ongoing.

4. Mary Jill Hanson, Florida Immigrant Coalition

Mary Jill Hanson is a licensed attorney who is admitted to practice in Florida and who serves the immigrant population of Jupiter, Florida, and of Palm Beach County generally. She serves as a member of the board of the Florida Immigrant Coalition. In addition, Ms. Hanson volunteers as a pro bono attorney and community advocate with numerous immigration

instances in August 2019 and September 2019 where this occurred. In the first incident, a woman was detained by ICE after local law enforcement stopped her for a minor traffic violation. The officer ran a background check on the woman stopped, identified what he incorrectly believed to be an order of arrest against her for an immigration violation, and called immigration authorities to the scene of the stop. The woman was never issued a traffic citation but was nevertheless taken into immigration custody and deported nine days later. In the second incident, a young man was also stopped by local law enforcement in a routine traffic stop but was ultimately taken into ICE custody without being issued a traffic citation. He was later released from the detention facility approximately six weeks later.

Ms. Hanson ultimately spoke with the chief of police about the first incident described above and reviewed the police UHSRUW ZKLFK LQ had a judicial warrant for her arrest pending, rather than an administrative warrant. Later, at a town council meeting, the assistant chief of police acknowledged that the warrant was an administrative warrant and conceded that the officers had no training in immigration law. Those incidents were concerning as they demonstrated that SB 168 was not being enforced only against immigrants in state custody who had valid detainer requests, as originally intended. Rather, the law was being applied during routine traffic stops without any citation or valid arrest. That practice was destructive to the relationship between community members and law enforcement, and it essentially nullified years of community outreach efforts to build trust. SB 168 had caused the community to fear interacting with law enforcement. She explained that a legal resident in this country chose not to report that he was the victim of a crime to law enforcement until he was forced to go to the hospital to receive treatment for his injuries.

Ms. Hanson testified about her encounters with FLIMEN as a volunteer at the El Sol

members such as wage theft and housing issues, and it deals with immigration issues and hosts SURJUDPV WR HGXFDWH WKH FRPPXQLW\ RQ ZKHVH LVV approximately 10,000 members of African American, Haitian, Latin American, and Central American descent, with a small percentage of white members. These members are of all different immigration statuses and are predominantly farmworkers or other temporary or seasonal foreign workers.

Upon learning of SB 168, FWAF immediately began contacting legislators and attempting to convey the harm and discriminatory effect the bill would have on its members. The bill would hurt the relationships between law enforcement and immigrants and would lead to increased racial SURILOLQJ DQG ZDJH WKHIW DJDLQVW):$) PHPEHUV DQG ZI crimes. FWAF hosted additional educational programs and know-your-rights presentations, community meetings with members and with local law enforcement agencies, and city participation. FWAF began working with the consulates of many countries that were representative

during the legislative session for SB 168 was different from prior years. Amidst a polarized political climate, the bill was rushed through the legislative process with little notice or opportunity for discussion with legislators. The bill was added to the legislative schedule abruptly and without any explanation as to how or why it was introduced, thus forcing FWAF representatives to travel back and forth from Tallahassee more than planned to continue advocating against SB 168. Indeed, similar laws had been introduced in the past, but FWAF always had the opportunity to present its opposition to the legislators and to discuss reasonable compromises to lessen the effects on its community members. The 2019 legislative session lacked any comparable opportunities for advocacy. Most conversations with legislators occurred in passing in the hallways of the Capitol building. Moreover, Mr. Tovar visited 6HQDWRU *UXWHUV¶ RIILFH WZLFH DQG ZKR DSSHDUHG GLVLQWHUHVWHG LQ)$)¶V FRQFHUQV DQG Barnhill simply responded that the bill only targeted criminal undocumented immigrants. FWAF

individuals who were ultimately detained by immigration offi

SB 168 caused widespread fear in the community and a need to respond with additional support, resources, and education. Hope staff members noticed increased law enforcement

issue, such as an impending deportation or racial profiling during an encounter with law enforcement. Urgent tickets require a FLIC response volunteer to meet the caller on site to provide support, and FLIC has a network of volunteers and member organizations across Florida that respond to these issues. Alternatively, a problematic ticket reflects the lack of existing resources to meet member needs and prompts additional community support based follow up. Finally, for calls that simply involve providing information or answering routine questions from members, these inquiries are typically addressed after the initial intake.

L Q F D O O V U H S R U W L Q J W K H V H L V V X H V Z H U H G L U H F W O \ U H O

Ms. Muñoz testified about two incidents that she responded to as the Hotline Manager and that occurred after SB 168 was enacted. One involved an incident where a mother was stopped by Customs and Border Protection (CBP) while she was a passenger in a car with her children. She

$SRSND)ORULGD 6LVWHU .HQGULFN¶V SRVLWLRQ HQWDLO

advocacy and of providing services to the Hope community.

When SB 168 was introduced at the 2019 legislative session, Hope began to mobilize its community in order to challenge the bill. Hope began offering additional educational programs and know-your-rights presentations to inform its clients of the support and recourse available to them if they were detained. Hope also offered powers of attorney to individuals who were particularly at risk of being detained and taught members of the community how to locate various resources and documentation in preparation for any potential detention.

On two occasions, Sister Kendrick traveled with a coalition of non-profit organizations to Tallahassee, Florida, to participate in the legislative session and to speak with legislators from both political parties about the harmful effects of SB 168. While in Tallahassee, the group attended committee meetings and attempted to discuss various bills with available legislators. They tried to schedule meetings with legislators, but scheduled meetings were extremely difficult to secure. As a result, Sister Kendrick tried WR SUHVHQW +RSH¶V SRVLWLRQV WR committees or to target legislators in the hallways to present the concerns and perspectives of the immigrant community.

After participating in legislative sessions every year for the past years, the 2019 legislative session was unusually difficult to navigate because of the inability to sit and meet with OHJLVODWRUV DQG WR SUHVHQW +RSH¶V SRLQW RI YLHZ R were different from her prior experiences because there appeared to be no room for any kind of negotiation or meaningful discussion on the issues raised. Sister Kendrick also recalled visiting 6HQDWRU *UXWHUV¶ RIILFH RQ RQH DGYRFDF\ YLVLW DQG V blown-

ZKLFK UHDIILUPHG +RSH¶V FRQFHUQV DERXW WKH ELOO DQ

The number of calls Hope received after SB 168 increased, especially from individuals attempting to locate their detained family members and/or requesting specific assistance. In one instance. incident, she performed work on a case where an individual was arrested despite not having committed a crime and simply for walking down the street. This individual was ultimately deported before Hope could help him.

9. Christopher Cuevas, QLatinx

Christopher Cuevas is the Executive Director Emeritus of QLatinx, a membership-based non-