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Florida Attorney General's Office News Release

Attorney General Moody Leads Multistate Amicus Brief Against Biden's Border-Related Political Gamesmanship



TALLAHASSEE, Fla.—Attorney General Ashley Moody filed an amicus brief in the United States Court of Appeals for the Ninth Circuit in support of [Intervenor States](#) seeking to keep the Biden administration from using shadowy gamesmanship to manipulate the president's most vulnerable political liability in an election year: the border crisis. The Biden administration, on multiple occasions, used these [tactics](#) in an attempt to provide cover from his historical outright failure to protect the sovereignty of the nation. In this case, the Biden administration appears to have abandoned its defense of the “Circumvention of Lawful Pathways” rule, a rule that allows the Department of Homeland Security to turn away some asylum seekers, seeking instead a settlement agreement with pro-illegal immigration organizations, such as the East Bay Sanctuary Covenant, an immigration-services nonprofit based in California.

Attorney General Ashley Moody said, “This administration has repeatedly shown that it cannot be trusted, especially as it relates to defending the sovereignty of our nation and safety of our citizens. This president has turned every state in the country into a border state by allowing millions of unvetted and undocumented aliens into the interior. States have a right to be party to any settlement negotiations that will dictate border policy because we have an interest in protecting the safety of our citizens and the resources of our communities.”

Following a 2023 challenge and subsequent [vacatur](#) of the Circumvention of Lawful Pathways rule, the Biden administration appealed the decision to the United States Court of Appeals for the Ninth District arguing the rule was absolutely [necessary](#), and “any interruption in the rule’s implementation will result in another surge in migration that will significantly disrupt and tax DHS operations.” Until just recently, the administration asked the court to delay further litigation pending a settlement negotiation.

The move puzzled Ninth Circuit Judge Lawrence VanDyke, who stated in [dissent](#), “The administration’s abrupt about-face makes no sense as a legal matter. Either it previously lied to this court by exaggerating the threat posed by vacating the rule, or it is now hiding the real reason it wants to hold this case in abeyance. Given its success thus far in defending a rule it has consistently characterized as critical to its control of the border, and the fact that it has to realize its odds of success in this case can only improve as it works its way vertically through the federal court system, the government’s sudden and severe change in position looks a lot like a purely politically motivated attempt to throw the game at the last minute. At the very least it looks like the administration and its frenemies on the other side of this case are colluding to avoid playing their politically fraught game during an election year.”

Following the revelation of a potential settlement, the attorneys general from Alabama, Georgia, Louisiana, Kansas, and West Virginia filed a motion to intervene. Alabama Attorney General Steve Marshall [said](#), “As the tsunami of illegal immigrants continue to pour across our border, Biden and radical activist groups stymie every reasonable effort to defend our country...People in every state are bearing the burdens of this crisis, yet Biden and his cronies refuse to stand up for Americans. Instead, Biden has launched closed-door settlement talks with activist groups to potentially lock in an agreement that would weaken border security for years to come. My colleagues and I are intervening to ensure that does not happen.”

This week, Attorney General Moody led a coalition of 17 states in filing an amicus brief in support of the Intervenor States saying, “The Intervenor States seek to protect their own sovereign interests by ensuring the challenged rule stays in effect and is used to mitigate illegal immigration—a defense that undeniably shares a common question of law and fact with the main action. This Court should grant their motion and allow them to . . . intervene”.

The attorneys general of the following states joined Attorney General Moody in the brief: Arkansas, Indiana, Iowa, Kentucky, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, South Carolina, South Dakota, Texas, Utah and Virginia.

Read the full amicus brief [here](#).

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