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Court Issues Landmark Ruling, Halting Department of Labor's Attempt to Create New Right for Foreign Temporary Farmworkers to Unionize as Unconstitutional

BRUNSWICK, GA (Aug. 26, 2024): In a landmark ruling, a federal court in Georgia found the U.S. Department of Labor's newly issued rule requiring agricultural employers to allow temporary foreign farmworkers to unionize is unconstitutional and enjoined the DOL from enforcing the unconstitutional rule against all members of Georgia Fruit and Vegetable Growers Association (GFVGA), Miles Berry Farm, and agricultural employers within the 17 states that joined the lawsuit.

During the New Deal, Congress gave some employees the right to form labor unions through the National Labor Relations Act (NLRA), but it explicitly *excluded* farmworkers from the right to form unions and has continued to do so for nearly 90 years. The DOL ignored this 90-year-old law, and through the challenged rule sought to unilaterally make a new law and create a new right to collective bargaining for foreign farmworkers.

Southeastern Legal Foundation clients, GFVGA and Miles Berry Farm, and a coalition of 17 states led by Kansas filed a federal lawsuit challenging the legality and constitutionality of the DOL's new rule. Today the federal court ruled in their favor, reminding our federal agencies that they are not Congress.

In enjoining the DOL's new rule, the federal court explained that the new rule conflicts with the NLRA's explicit exclusion of farmworkers and is thus "unconstitutional." The federal court continued, making clear that in issuing the new rule, DOL exceeded its constitutionally afforded authority and reminding the federal agency that it "may assist Congress, but may not become Congress" and that it "cannot make both executive rules and congressional laws."

Braden Boucek, VP of Litigation at Southeastern Legal Foundation reacted to the ruling: "Today, a federal court correctly halted this Administration's illegal attempt to hijack Congress's role in making law through a harmful and disruptive rules change to the well-known H-2A worker program. The decision recognizes that no matter how much the White House tries, it cannot simply ignore federal law or rewrite laws all on its own. Separation of powers protects everyone, especially America's food producers, from an overreaching executive branch."

Executive Vice President for GFVGA Chris Butts, applauded the injunction on behalf of GFVGA's members stating, "This decision validates our belief that the latest set of rules proposed by the Department of Labor go far beyond the authority granted by Congress. Pausing these rules will allow the court to weigh the detrimental impacts these rules would have created within the H-2A program that is so critical to our ability to produce fresh fruits and vegetables here in the U.S. Growers nationwide rely on the program but find it increasingly difficult to administer due to the onerous rules and policies that leave U.S. producers at a demonstrable disadvantage to foreign competitors. This decision is welcome news, and we look forward to having our day in court to protect the interests of growers and their families in Georgia and beyond."

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