

Supreme Court of Louisiana

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FROM: CLERK OF SUPREME COURT OF LOUISIANA

The Opinions handed down on the 15th day of October, 2013, are as follows:

BY WEIMER, J.:

2013-KK-0315 STATE OF LOUISIANA v. ROSA LUGO MARQUEZ (Parish of Lafayette)

The judgments of the lower courts are reversed and set aside, and judgment is hereby rendered granting defendant's motion to quash. REVERSED.

VICTORY, J., dissents with reasons.

HUGHES, J., dissents with reasons.

10/15/2013

SUPREME COURT OF LOUISIANA

NO. 2013-KK-0315

STATE OF LOUISIANA

VERSUS

ROSA LUGO MARQUEZ

*ON SUPERVISORY WRITS TO THE FIFTEENTH JUDICIAL DISTRICT COURT
FOR THE PARISH OF LAFAYETTE*

WEIMER, Justice

We granted certiorari in this case to determine whether La. R.S. 14:100.13, which punishes as a felony the operation of a motor vehicle by an alien student or nonresident alien without documentation demonstrating lawful presence in the United States, is preempted by federal law under the Supreme Court's recent decision in **Arizona v. United States**, 132 S.Ct. 2492 (2012). Finding that the statute operates in the field of alien registration and is, therefore, preempted by federal law under the Supremacy Clause of the U.S. Constitution as interpreted by the Supreme Court in **Arizona**, we reverse the rulings of the lower courts and render judgment granting the defendant's motion to quash.

FACTS AND PROCEDURAL HISTORY

On May 8, 2012, defendant Rosa Lugo Marquez was charged by bill of information with being an alien student and/or a nonresident alien who operated a motor vehicle in the parish of Lafayette without documentation demonstrating that she is lawfully present in the United States, a violation of La. R.S. 14:100.13. According

to defendant, the charge stems from her involvement in an automobile accident in Lafayette Parish on December 17, 2011. On July 27, 2012, defendant filed a motion to quash the bill of information in which she contended that La. R.S. 14:100.13 is preempted by federal law. Following a hearing on September 13, 2012, the district court denied the motion to quash, finding that because the Louisiana law addresses driving requirements and the law found to be preempted in **Arizona** “has nothing to do with driving,” La. R.S. 14:100.13 was not preempted.

The defendant applied for review to the Court of Appeal, Third Circuit. In a ruling issued January 7, 2013, the court of appeal denied the defendant’s writ application, finding “no error” in the district court’s ruling. **State v. Marquez**, 12-1316 (La.App. 3 Cir. 1/7/13) (unpub’d.). One member of the appellate panel, Judge Gremillion, dissented, noting that he would have called up the writ for argument. *Id.*

On defendant’s application, we granted certiorari¹ and consolidated this case for argument with two additional cases from the Third Circuit, which are decided in separate opinions issued contemporaneously with this matter. **State v. Ramirez**, 12-1245 (La.App. 3 Cir. 1/7/13) (unpub’d.), writ granted, 13-0276 (La. 5/3/13), ___ So.3d ___; **State v. Sarrabea**, 12-1013 (La.App. 3 Cir. 5/1/13), ___ So.3d ___, writ granted, 13-1271 (La. 6/26/13), ___ So.3d ___.

LAW AND ANALYSIS

For the reasons assigned this day in **State v. Sarrabea**, 13-1271 (La. 10/___/13), ___ So.3d ___, we find that despite its laudable goals, La. R.S. 14:100.13 is preempted by federal law. More particularly, we find that the decision of the Supreme Court in **Arizona**, *supra*, is both controlling and dispositive of the issue presented, and that following **Arizona**, we are constrained to hold that La. R.S. 14:100.13 operates

¹ **State v. Marquez**, 13-0315 (La. 5/3/13), ___ So.3d ___.

in the field of alien registration and is, therefore, preempted by federal law under the Supremacy Clause of the U.S. Constitution. As a result, we find that the lower courts erred in denying the defendant's motion to quash the bill of information.

DECREE

The judgments of the lower courts are reversed and set aside, and judgment is hereby rendered granting defendant's motion to quash.

REVERSED.

10/15/2013

SUPREME COURT OF LOUISIANA

NO. 13-KK-0315

STATE OF LOUISIANA

VERSUS

ROSA LUGO MARQUEZ

**ON WRIT OF CERTIORARI TO THE FIFTEENTH JUDICIAL DISTRICT
COURT FOR THE PARISH OF LAFAYETTE**

VICTORY, J., dissents.

I dissent from the majority opinion for the same reasons I dissented this day
in *State of Louisiana v. Sarrabea*, 13-K-1271 (La. 10/15/13), ___ So. 3d ___.

10/15/2013

SUPREME COURT OF LOUISIANA

NO. 2013-KK-0315

STATE OF LOUISIANA

VERSUS

ROSA LUGO MARQUEZ

ON SUPERVISORY WRITS TO THE FIFTEENTH JUDICIAL
DISTRICT COURT FOR THE PARISH OF LAFAYETTE

Hughes, J., dissenting.

I respectfully dissent. Louisiana has passed a law that prohibits non-citizen aliens from driving in Louisiana without documentation showing they are legally present in the United States. The documentation is already required of non-citizen aliens by the federal government. I fail to see how Louisiana's statute interferes with federal immigration law or involves the status of aliens. Rather, I view it as a legitimate measure to protect the citizens of Louisiana, much the same as requiring drivers to carry liability insurance.