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United States Court of Appeals
Tenth Circuit

May 29, 2024

Christopher M. Wolpert
Clerk of Court

**PUBLISH**

**UNITED STATES COURT OF APPEALS**

**FOR THE TENTH CIRCUIT**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE LUIS AMADOR-BONILLA,

Defendant - Appellant.

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DR. S. DEBORAH KANG; ADVOCATES FOR BASIC LEGAL EQUALITY; JUSTICE STRATEGIES; LATINOJUSTICE PRLDEF; LEGAL AID JUSTICE CENTER; MASSACHUSETTS LAW REFORM INSTITUTE; NATIONAL IMMIGRATION LAW CENTER; AL OTRO LADO; AMERICAN GATEWAYS, f/k/a Political Asylum Project of Austin; BLACK ALLIANCE FOR JUST IMMIGRATION; CALIFORNIA COLLABORATIVE FOR IMMIGRANT JUSTICE; CAPITAL AREA IMMIGRANTS' RIGHTS COALITION; CHACON CENTER FOR IMMIGRANT JUSTICE AT MARYLAND CAREY LAW; IMMIGRATION DETENTION ACCOUNTABILITY PROJECT OF THE CIVIL RIGHTS EDUCATION AND ENFORCEMENT CENTER; COMUNIDAD MAYA PIXAN IXIM; DETENTION WATCH NETWORK; DOCTORS FOR CAMP CLOSURE;

Nos. 22-6036 & 22-6037

FEDERAL DEFENDERS OF EASTERN WASHINGTON AND IDAHO; THE FLORENCE IMMIGRANT & REFUGEE RIGHTS PROJECT; IMMIGRANT LEGAL DEFENSE; IMMIGRANT LEGAL RESOURCE CENTER; IMMIGRATION EQUALITY; NATIONAL IMMIGRANT JUSTICE CENTER; NATIONAL IMMIGRATION PROJECT OF THE NATIONAL LAWYERS GUILD; OREGON JUSTICE RESOURCE CENTER; PUBLIC COUNSEL'S IMMIGRANTS' RIGHTS PROJECT; ROCKY MOUNTAIN IMMIGRANT ADVOCACY NETWORK; SAN FRANCISCO PUBLIC DEFENDER'S OFFICE; TEXAS CIVIL RIGHTS PROJECT; WASHINGTON DEFENDER ASSOCIATION; YOUNG CENTER FOR IMMIGRANT CHILDREN'S RIGHTS; ASIAN AMERICANS ADVANCING JUSTICE; HUMAN RIGHTS FIRST; NORTHWEST IMMIGRANT RIGHTS PROJECT; INGRID EAGLY; DAVID G. GUTIERREZ; MAE NGAI; GEORGE J. SANCHEZ; DANIEL TICHENOR; DEVRA WEBER; THE AOKI CENTER FOR CRITICAL RACE AND NATION STUDIES; CENTER FOR IMMIGRATION LAW AND POLICY,

Amici Curiae.

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**Appeal from the United States District Court**
**for the Western District of Oklahoma**
**(D.C. Nos. 5:21-CR-00187-C-1 & 5:21-CR-00330-C-1)**

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Laura Deskin, Assistant Federal Public Defender (Jeffery M. Byers, Federal Public Defender, with her on the briefs), Oklahoma City, Oklahoma, for Defendant-Appellant.

Steven W. Creager, Assistant United States Attorney (Robert J. Troester, United States Attorney, with him on the briefs), Oklahoma City, Oklahoma, for Plaintiff-Appellee.

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Before **MORITZ**, **SEYMOUR**, and **EID**, Circuit Judges.

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**EID**, Circuit Judge.

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Jose Luis Amador-Bonilla was charged with violating 8 U.S.C. § 1326, Illegal Reentry After Removal from the United States. He moved to dismiss the indictment, arguing the illegal reentry provision of the Immigration and Nationality Act violates his right to equal protection enshrined in the Due Process Clause of the Fifth Amendment. The district court denied the motion, and he appealed.

Under the framework articulated in *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977), Amador-Bonilla fails to show that Congress enacted the provision in 1952 with a discriminatory purpose as a motivating factor. And all parties agree that the provision otherwise satisfies rational basis review. We therefore conclude that 8 U.S.C. § 1326 does not violate the Fifth Amendment. In doing so, we join four of our sister circuits that have upheld 8 U.S.C. § 1326 against challenges on the same grounds.[1] Accordingly,

[1] *See United States v. Sanchez-Garcia*, 98 F.4th 90, 94 (4th Cir. 2024); *United States v. Wence*, No. 22-2618, 2023 WL 5739844, at *3 (3d Cir. May 22, 2023); *United States v. Carrillo-Lopez*, 68 F.4th 1133, 1153–54 (9th Cir. 2023), *cert. denied*, 144 S. Ct. 703 (2024); *United States v. Barcenas-Rumualdo*, 53 F.4th 859, 863–67 (5th Cir. 2022).

exercising jurisdiction under 28 U.S.C. § 1291, we affirm the order of the district court denying Amador-Bonilla's motion to dismiss.

**I.**

Jose Luis Amador-Bonilla is a citizen of Guatemala and Nicaragua. Beginning at the age of fifteen, he entered the United States without authorization and was thereafter removed six times. Most recently, he was arrested in Oklahoma and charged with illegal reentry under 8 U.S.C. § 1326(a), an offense for which he had already been convicted twice. He filed a motion to dismiss the indictment, arguing § 1326 violates the equal protection guarantees of the Fifth Amendment. Amador-Bonilla argued the court must apply the *Arlington Heights* framework to his challenge. He argued that while facially neutral, § 1326 "intentionally ha[s] a disparate impact on persons who have entered this country without permission from a specific place (here, Latin America)" and that this disparate impact was motivated by racial or ethnic animus. R. Vol. I at 673.

In support of his argument, Amador-Bonilla introduced, as relevant here, (1) Congressional records from 1924, 1929, and 1952; (2) a transcript from a 1928 Congressional committee hearing on eugenics and immigration; (3) declarations that two experts, Professor Kelly Lytle Hernández and Professor Benjamin Gonzalez O'Brien,[2] had provided to the district court in *United States v. Carrillo-Lopez*, 555 F.

[2] Professor Lytle Hernández is the Tom Lifka Endowed Chair in History at the University of California at Los Angeles and a 2019 John D. and Catherine T. MacArthur Fellow. Professor Gonzalez O'Brien is an Associate Professor of Political Science at San Diego State University. While neither Professor Lytle

Supp. 3d 996, 1027 (D. Nev. 2021), *rev'd and remanded*, 68 F.4th 1133 (9th Cir. 2023), *cert. denied*, 144 S. Ct. 703 (2024); and (4) a transcript of a hearing from *Carrillo-Lopez* in which both experts testified.

After outlining the history of the illegal reentry provision, Amador-Bonilla presented evidence on the continued disparate impact § 1326 has on "Latinos."[3] Aplt. Br. at 5. He relied in large part on what Professor Lytle Hernández wrote: "[T]he U.S. Bureau of Prisons reported that Mexicans never comprised less than 84.6 percent of all imprisoned immigrants," and in some years, "Mexicans compromised 99 percent of immigration offenders." R. Vol. I at 209 (declaration of Professor Lytle Hernández). Professor Lytle Hernández also wrote, "71 percent of all Mexican federal prisoners [are] charged with immigration crimes." *Id.*

The district court reviewed this and other evidence. It then determined that rational basis review applied to Amador-Bonilla's challenge and that the challenge failed because Amador-Bonilla failed to show there was no "rational relationship

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Hernández nor Professor Gonzalez O'Brien was certified as an expert in this case, the government does not challenge their expertise or the facts to which they testified. Therefore, we recognize their expertise to the degree they were certified as such by the district court in *Carrillo-Lopez*. *See* R. Vol. I at 260 (certifying Professor Lytle Hernández as an expert in "history, with a particular emphasis [in] the intersection between race, policing, and immigration"); *id.* at 319 (certifying Professor Gonzalez O'Brien as an expert in "political science [] with a particular expertise in immigration policy, race, and public policy").

[3] Amador-Bonilla uses the term "Latino" to refer "to people from Latin American countries, including Mexico." Aplt. Br. at 20 n.3. We use his terminology for the purposes of this consolidated appeal. The parties disagree as to whether "Latino" constitutes a racial classification or a classification based on national origin. We need not and do not resolve this issue today.

between the disparity of treatment and some legitimate governmental purpose." *United States v. Amador-Bonilla*, No. CR-21-187-C, 2021 WL 5349103, at *1 (W.D. Okla. Nov. 16, 2021) (citation omitted). And even if the *Arlington Heights* framework arguably applied (as Amador-Bonilla had urged), the district court found that Amador-Bonilla "failed to demonstrate that [8 U.S.C. § 1326] was passed with a discriminatory purpose as a motivating factor." *Id.* at *2. The court then denied his motion to dismiss the indictment.

Amador-Bonilla entered a conditional guilty plea to one count of violating 8 U.S.C. § 1326(a). He also admitted to violating a condition of supervised release, imposed after his conviction for the same offense in New Mexico. He now appeals his conviction in both cases.[4]

**II.**

We review the constitutionality of a statute de novo, beginning with a presumption that it is constitutional. *United States v. White*, 782 F.3d 1118, 1123 (10th Cir. 2015). To overcome that presumption, the challenger must make "a plain showing that Congress has exceeded its constitutional bounds." *United States v. Brune*, 767 F.3d 1009, 1015 (10th Cir. 2014) (citation omitted). A determination that a statute was enacted because of "discriminatory intent" is a factual finding reviewed

[4] Case No. 22-6036 concerns Amador-Bonilla's appeal of the district court's 8 U.S.C. § 1326(a) judgment. Case No. 22-6037 concerns his appeal of the district court's supervised release revocation judgment. This Court consolidated the appeals.

for "clear error." *Abbott v. Perez*, 585 U.S. 579, 607 (2018); *see Candelaria v. EG & G Energy Measurements, Inc.*, 33 F.3d 1259, 1261 (10th Cir. 1994).[5]

**III.**

Amador-Bonilla renews his argument that § 1326 violates the equal protection guarantees of the Fifth Amendment's Due Process Clause. U.S. Const. amend. V; *see also Bolling v. Sharpe*, 347 U.S. 497, 500 (1954) (reverse-incorporating the equal protection guarantees of the Fourteenth Amendment into the Fifth Amendment). The Fifth Amendment provides that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. "[T]he Due Process Clause of the Fifth Amendment contains an equal protection component prohibiting the United States from invidiously discriminating between individuals or groups." *Washington v. Davis*, 426 U.S. 229, 239 (1976). And "when a statute classifies by race, alienage, or national origin," courts subject the law to "strict scrutiny" and will only sustain the law if it is "suitably tailored to serve a compelling state interest." *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440 (1985).

The statute at issue here is 8 U.S.C. § 1326. That provision makes it a crime for "*any* alien"—who "has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding"—to thereafter "enter[], attempt[] to enter, or [be] at any time found in,

[5] Amador-Bonilla argues, without support, that we review the finding of discriminatory intent de novo. Even if we did review the district court's finding de novo, the result would be the same.

the United States," unless an exception applies. 8 U.S.C. § 1326 (emphasis added). Importantly, the provision does not discriminate on its face. Without regard to race or alienage, § 1326 treats all reentering aliens the same way.

That said, the Supreme Court has held that a facially neutral statute can violate equal protection if a challenger proves that Congress enacted the statute for a discriminatory purpose or intent and the statute has a racially disparate impact. *Arlington Heights*, 429 U.S. at 265–66.

Amador-Bonilla argues that we should apply the *Arlington Heights* framework to his challenge because, even though § 1326 is an immigration law, it has criminal penalties and discriminates against "Latino individuals" because of their race. Aplt. Br. at 20. Under the framework, he reasons that Congress enacted § 1326 for a discriminatory purpose and intent and that the statute has a racially disparate impact on Latinos. And he then argues that this intentionally discriminatory law does not survive strict scrutiny.

Instead of applying the *Arlington Heights* framework, the government argues that we should instead apply rational basis review to federal immigration laws and regulations, except in circumstances not relevant here. *See generally Soskin v. Reinertson*, 353 F.3d 1242, 1255 (10th Cir. 2004) ("When Congress exercises these powers to legislate with regard to aliens, the proper standard of judicial review is rational-basis review."); *Matthews v. Diaz*, 426 U.S. 67, 81–82 (1976) ("The reasons that preclude judicial review of political questions also dictate a narrow standard of review of decisions made by the Congress or the President in the area of immigration

and naturalization.").

As our sister circuits have recognized, "the correct standard of review for this challenge is not entirely clear." *United States v. Sanchez-Garcia*, 98 F.4th 90, 98 (4th Cir. 2024). Yet, like our sister circuits, we need not now resolve which standard of review applies because Amador-Bonilla's equal protection claim fails under either standard. We assess each in turn.

**A.**

Under rational basis review, we will uphold a statute's constitutionality under the Equal Protection Clause if "a rational relationship" exists "between the disparity of treatment and some legitimate governmental purpose." *Heller v. Doe*, 509 U.S. 312, 320 (1993). And the burden falls on Amador-Bonilla to prove that no rational basis exists. *Id.* Amador-Bonilla conceded at oral argument that § 1326 meets the rational basis standard. We therefore hold that he has failed to meet his burden in showing that § 1326 does not satisfy rational basis review.

**B.**

We now turn to the more complex question under the *Arlington Heights* framework. Again, to bring an equal protection claim under that framework, Amador-Bonilla bears the burden of proving that Congress enacted § 1326 with a discriminatory purpose or intent and that § 1326 has a racially disparate impact. *Arlington Heights*, 429 U.S. at 265–66. "Proving the motivation behind official action is often a problematic undertaking." *Hunter v. Underwood*, 471 U.S. 222, 228 (1985). "The task of assessing a jurisdiction's motivation . . . is an inherently

complex endeavor, one requiring the trial court to perform a 'sensitive inquiry into such circumstantial and direct evidence of intent as may be available.'" *Hunt v. Cromartie*, 526 U.S. 541, 546 (1999) (quoting *Arlington Heights*, 429 U.S. at 266).

*Arlington Heights* lists five factors to consider when determining if Congress passed a statute with a discriminatory purpose: (1) the "historical background of the decision," (2) the "specific sequence of events leading up to the challenged decision," (3) "[d]epartures from the normal procedural sequence," (4) "[s]ubstantive departures," and (5) "legislative or administrative history . . . especially where there are contemporary statements by members of the decisionmaking body." *Arlington Heights*, 429 U.S. at 267–68.

Amador-Bonilla's evidence is focused primarily on the lead up to and passage of the 1929 Undesirable Aliens Act (the "1929 Act")—the predecessor of 8 U.S.C. § 1326. The record preceding the 1929 Act's passage is full of repugnant ideas and language. However, the provision at issue here, 8 U.S.C. § 1326, was passed as part of the 1952 Immigration and Nationality Act, and both parties agree our focus should be on the 1952 Act.[6] R. Vol. I at 720; Aplt. Op. Br. at 24; Aple. Br. at 8–9; *see also Perez*, 585 U.S. at 603 ("The 'ultimate question remains whether a discriminatory intent has been proved in a given case.'" (citation omitted)). While we may consider the passage of the 1929 Act as part of the historical background, *see Ramos v. Louisiana*, 140 S. Ct. 1390, 1394 (2020); *id.* at 1410 (Sotomayor, J., concurring in

[6] We refer to 8 U.S.C. § 1326 as both "§ 1326" and the "1952 Act" throughout this opinion.

part), Amador-Bonilla must show the 1952 Act, and it alone, was passed for a racially discriminatory purpose.

With this in mind, notwithstanding the actions of earlier Congresses, we must begin our analysis with the presumption that the 1952 Congress acted in good faith in reenacting the illegal reentry provision. *Perez*, 585 U.S. at 603 ("[T]he presumption of legislative good faith [is] not changed by a finding of past discrimination."); *United States v. Carrillo-Lopez*, 68 F.4th 1133, 1153 (9th Cir. 2023), *cert. denied*, 144 S. Ct. 703 (2024) ("The strong 'presumption of good faith' on the part of the 1952 Congress is central to our analysis." (citation omitted)); *N.C. St. Conf. of the NAACP v. Raymond*, 981 F.3d 295, 298 (4th Cir. 2020) ("A legislature's past acts do not condemn the acts of a later legislature, which we must presume acts in good faith."). The burden is on Amador-Bonilla to show otherwise. *Miller v. Johnson*, 515 U.S. 900, 915 (1995); *Carrillo-Lopez*, 68 F.4th at 1140–41.

Recognizing this, Amador-Bonilla argues that the "[a]nti-Latino animus [of the 1920s] continued influencing federal immigration legislation into the 1950s, impacting the 1952 reenactment of § 1326" and that "[t]he 1952 Congress knew about § 1326's racist origins [and] said nothing." Aplt. Br. at 24, 28. In his view, Congress's failure to debate the illegal reentry provision in 1952—and, presumably, to acknowledge or disavow its racist history—evinces a continued intent to discriminate rather than a race-neutral act. However, while evidence that the legislature "truly grappled with the law['s] sordid history in reenacting [it]" may go a long way to "free [the law] of discriminatory taint," *Ramos*, 140 S. Ct. at 1410

(Sotomayor, J., concurring in part), we do not require a demonstration that Congress had a "change of heart" or "engage[d] in a deliberative process" when it reenacted a law to ensure the provision at issue was "cured" of any taint of prior unconstitutional motives, *Perez*, 585 U.S. at 605 (citation omitted). *See also McCleskey v. Kemp*, 481 U.S. 279, 298 n.20 (1987) ("Although the history of racial discrimination in this country is undeniable, we cannot accept official actions taken long ago as evidence of current intent."); *United States v. Barcenas-Rumualdo*, 53 F.4th 859, 866 (5th Cir. 2022) ("[W]e do not take Congress's silence about the history of the [1929 Act] as evidence that it adopted any prior discriminatory intent."). Imposing such a requirement when a subsequent Congress reenacted or reaffirmed a provision would impermissibly shift the burden of proof from Amador-Bonilla to the government. *See Perez*, 585 U.S. at 603. Therefore, it is insufficient for Amador-Bonilla to show Congress said nothing; he must provide evidence of what Congress did do.

To this end, in addition to his evidence related to the passage of the 1929 Act, Amador-Bonilla relies on: (1) the similarities in the language between the 1929 Act and the 1952 Act; (2) contemporaneous actions of Congress, both before and after the passage of the 1952 Act; and (3) statements by a member of Congress and other officials related to the passage of the 1952 Act.[7] We address each in turn.

[7] Amador-Bonilla references documents in his brief that were not in the district court record nor the record on appeal. *See, e.g.*, Aplt. Br. at 27. Because we are reviewing the district court's factual finding for clear error based on the record before it, we will not review documents it did not have an opportunity to consider. *See In re Syngenta AG MIR 162 Corn Litig.*, 61 F.4th 1126, 1224 (10th Cir. 2023) ("We do not generally review documents that were not before the district court.");

First, Amador-Bonilla argues the similar language in the 1929 Act and 1952 Act "shows racial animus motivated its passing." Aplt. Br. at 26. But, as discussed above, Congress is not required to cleanse the discriminatory "taint" from a law it otherwise has the power to enact by actively disavowing its past. *Perez*, 585 U.S. at 605; *see Carrillo-Lopez*, 68 F.4th at 1140–41; *Raymond*, 981 F.3d at 303. That the 1952 Congress adopted the 1929 Act's language does not mean it also adopted any discriminatory intentions of the 1929 Congress. *See Carrillo-Lopez*, 68 F.4th at 1150 ("The [1952 Act] was enacted 23 years after the 1929 Act, and was attributable to a legislature with 'a substantially different composition,' in that Congress experienced a more than 96 percent turnover of its personnel in the intervening years." (citation omitted)). The language of the 1929 Act does not forever taint the later legislation enacted by a different Congress. *See id.* ("[T]he evidence of the discriminatory motivation for the 1929 Act lacks probative value for determining the motivation of the legislature that enacted the [1952 Act].").

Nor does "the clock . . . stop in 1952." *Sanchez-Garcia*, 98 F.4th at 100. As the Fourth and Fifth Circuits have emphasized, since 1929 and even after 1952, Congress has amended § 1326 several times—"most recently in 1996, and [Amador-Bonilla does] not meaningfully contend that any of those later congressional actions was based on racial discrimination." *Id.*; *see Barcenas-Rumualdo*, 53 F.4th at 866. His arguments overlook the fact that "[t]he further removed that § 1326 becomes

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*Anthony v. United States*, 667 F.2d 870, 875 (10th Cir. 1981) ("[D]ocuments [that] were not introduced [to the district court] . . . are not part of the record on appeal.").

from [the 1929 Act] by amendment, the less it retains its odor." *Barcenas-Rumualdo*, 53 F.4th at 866.

Second, Amador-Bonilla's evidence concerning Congressional actions that took place around the same time as the passage of the 1952 Act is insufficient to show Congress intentionally reenacted the illegal reentry provision *because of* its disproportionate impact on Latinos. Amador-Bonilla offers the legislative history of the 1952 Act, which at least one senator called the "W*****k Bill." R. Vol. I at 578 (82 Cong. Rec. 791 (1952) (statement of Sen. McFarland)). Amador-Bonilla also points to various statements by senators that include the slur, w*****k, and other anti-Mexican statements to show there was a fug of anti-Latino sentiment around the time Congress passed the 1952 Act.

But we agree with our sister circuits that "the proposal of a crudely nicknamed bill does not carry [a plaintiff's equal-protection] burden of proving that Congress enacted § 1326 with racial malice." *Barcenas-Rumualdo*, 53 F.4th at 867; *see Sanchez-Garcia*, 98 F.4th at 101; *Carrillo-Lopez*, 68 F.4th at 1149 n.13; *Wence*, No. 22-2618, 2023 WL 5739844, at *2–3 (3d Cir. Sept. 6, 2023). The senators' sentiments do not reveal a desire by Congress as a whole to criminally punish Latinos because of their race. And while the record shows that some employers used an immigration program to exploit and underpay workers from Mexico, the acts of private parties do not translate to Congress's motivations for passing the 1952 Act.

Finally, Amador-Bonilla highlights statements by a congressman and other officials related to the passage of the 1952 Act and the reenactment of the illegal

reentry provision. These include the statements by Representative Wood that Congress ought to consider racial origins and that he preferred western Europeans; the letter Deputy Attorney General Ford sent expressing support for the 1952 Act, which included the slur; and President Truman's statement when he vetoed the 1952 Act.

Statements by members of the Congress that passed a particular law may be used to support a conclusion that the law was passed for an impermissible purpose. *See United States v. O'Brien*, 391 U.S. 367, 383–84 (1968); *see also United States v. Vasquez-Alvarez*, 176 F.3d 1294, 1299 (10th Cir. 1999) (comments of an amendment's sponsor may aid in interpretation). Representative Wood's statement was deeply offensive. However, Representative Wood was one member of a much larger body, and his statements cannot be imputed to every other member of Congress. As the Supreme Court has made clear, "[t]he 'cat's paw' theory has no application to legislative bodies." *Brnovich v. Democratic Nat'l Comm.*, 141 S. Ct. 2321, 2350 (2021). Meaning, members of Congress are not "dupes" or "tools" to be used by others to accomplish their bigoted ends. *Id.* Rather, "legislators have a duty to exercise their judgment and to represent their constituents." *Id.* And "[w]hat motivates one legislator to make a speech about a statute is not necessarily what motivates scores of others to enact it," *O'Brien*, 391 U.S. at 384, as Professor Gonzalez O'Brien acknowledged, R. Vol. I at 380 ("[T]he 1952 law received political support for a variety of reasons."). *See also Carrillo-Lopez*, 68 F.4th at 1150 (statements of two Representatives "are not probative of the intent of the legislature

as a whole"); *Barcenas-Rumualdo*, 53 F.4th at 867 ("The fact that individual lawmakers dubbed a bill something derogatory, without more, says nothing of the motivations of Congress 'as a whole' regarding the [1952 Act] or § 1326 specifically.").

President Truman's statement accompanying his veto of the 1952 Act did not refer specifically to either § 1326 or Mexican nationals. As the Ninth Circuit recently held, "President Truman's opposition to the national-origin quota system, the central reason for his veto, sheds no light on whether Congress had an invidious intent to discriminate against Mexicans and other Central and South Americans in enacting § 1326." *Carrillo-Lopez*, 68 F.4th at 1148. Even if it did, statements by those who opposed a statute are given little, if any, weight. *N.L.R.B. v. Fruit & Vegetable Packers & Warehousemen, Loc. 760*, 377 U.S. 58, 66 (1964) ("[W]e have often cautioned against the danger, when interpreting a statute, of reliance upon the views of its legislative opponents. In their zeal to defeat a bill, they understandably tend to overstate its reach."); *Schwegmann Bros. v. Calvert Distillers Corp.*, 341 U.S. 384, 394 (1951) ("The fears and doubts of the opposition are no authoritative guide to the construction of legislation."); *see also Barcenas-Rumualdo*, 53 F.4th at 867 ("[President Truman's veto] carries scant interpretive weight. President Truman's opinion on the [1952 Act] is not probative of what Congress believed."). The same is true for statements from non-legislators, such as for the statements Amador-Bonilla provides from Deputy Attorney General Ford. *See Brnovich*, 141 S. Ct. at 2350–51 (2021) (requiring a challenger to provide some "evidence that the *legislature* as a

whole was imbued with racial motives" (emphasis added)); *see also Carrillo-Lopez*, 68 F.4th at 1149 ("The Ford letter's use of the [slur] sheds no light on Congress's views."); *Barcenas-Rumualdo*, 53 F.4th at 867 ("Attorney General Ford's letter carries little weight for the same reasons.").

After review of this record, we hold the district court did not clearly err in finding that Amador-Bonilla failed to meet his burden of showing that Congress passed § 1326 for the purpose of discriminating against Latinos. This conclusion that he failed to meet his burden "ends the constitutional inquiry." *Arlington Heights*, 429 U.S. at 271; *see Wence*, 2023 WL 5739844, at *3 (holding that the court did not need to "decide which standard of review applies to equal protection challenges to immigration laws" because the plaintiff's challenge against § 1326 failed under *Arlington Heights*).

**IV.**

For these reasons, we AFFIRM.