Escape clause

by The San Diego Union-Tribune

At some point, Americans are going to have to get tough on companies that knowingly hire illegal immigrants in blatant violation of the law. We're going to have do so to show we're serious about combatting illegal immigration, and that we realize the way to do that is by attacking the root of the problem with stiff fines and real jail time for repeat offenders.

But we're not there yet. In fact, whom are we kidding? We're not even close. Not when the principals of a Riverside-based fencing company get a virtual slap on the wrist after pleading guilty in federal court to repeatedly hiring illegal immigrants, and the rest of us get a slap in the face.

That's what happened when U.S. District Judge Barry Ted Moskowitz handed down a sweetheart sentence to Melvin Kay Jr., the founder and president of Golden State Fence Co., and his son-in-law and the company's vice president, Michael McLaughlin. The two men each received three years of probation, 1,040 hours of community service and 180 days of home detention with electronic monitoring. They and the company were also fined. Golden State Fence Co. will forfeit $4.7 million, the amount the government claims the company reaped in profits by using illegal immigrant labor. Kay was fined $200,000 and McLaughlin $100,000.

To most people, that probably sounds like a lot of money. But we're guessing it's not much for Kay and McLaughlin, who manage a company that rang up $150 million in sales in 2004. Ironically, much of that haul came from government contracts, including some for work on the fence between Mexico and the United States. Anyway you slice it, probation, community service and house arrest - in what we imagine are some very nice houses - are far from the sentence they were eligible for: six months in prison.

Why the discrepancy? Defense attorneys insist Moskowitz must have taken into account that the current immigration system is broken and Congress needs to find a mature and workable solution that gives employers a legal means to hire undocumented immigrant workers to fill jobs that Americans aren't doing. These two individuals are certainly not the only people in the country who are hiring illegal immigrants, the attorneys said. So why throw the book at them?

That's a fair question. And here's the best answer: Because they broke the law, and Americans don't get to choose which laws they're going to adhere to and which they're going to violate. They also don't get to hide behind the fact that Congress is in the process of reforming the law they are accused of breaking. That reform could take years, heaven forbid. Or never happen at all. And we just can't declare a moratorium on law enforcement efforts and suitable punishments until lawmakers get their act together.

Kay and McLaughlin deserved more than six months of home vacation. They deserved to spend that time in a jail cell. And the fact that they won't tells us a great deal about how Americans got into this mess and how difficult it will be for us to get out of it.

Reprinted from The San Diego Union-Tribune.

Escape clause by The San Diego Union-Tribune