



## HISTORY WILL TRUMP DONALD

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Donald Trump, the billionaire real estate mogul and GOP Presidential candidate, has called Mexican immigrants rapists and drug dealers who are demoralizing the country. His popularity among a certain section in the Republican party has surged as a result, and Trump continues to stand by his demagoguery.

Trump's latest foray into immigrant scapegoating for political gain is nothing new. Anti-immigration movements have been around since this nation's inception, and Trump is following in their footsteps. The good news is that they became irrelevant very quickly, and so will Trump.

Between 1830 and 1860, when there was virtually unrestricted immigration, 4.5 million immigrants arrived into the United States. Amongst them were Irish and Germans who were Catholic, and there was an over simplified view that Catholics would never be good citizens as they were beholden to the Pope and subject to the orders from the church. [Samuel Morse](#), well known as the inventor of the telegraph and Morse code, was also a nutty xenophobe, who warned:

*How is it possible that foreign turbulence imported by shiploads, that riot and ignorance in hundreds of thousands of human priest-controlled machines should suddenly be thrown into our society and not produce turbulence and excess? Can one throw mud into pure water and not disturb its clearness?*

The [Know Nothing](#) movement emerged in the 1850s with the objective of preventing the Irish from participating in national affairs. One of the pamphlets of the Know Nothing party warned:

*It is notorious that the grossest frauds have been practiced on our naturalization*

*laws, and that thousands and tens of thousands have every year deposited votes in the ballot box, who could not only not read them, and knew nothing of the nature of the business in which they were engaged, but who had not been six months in the country, and, in many cases, hardly six days.*

After the Irish got assimilated, Jews and Italians in the latter part of the 19<sup>th</sup> century became the targets of accusations that they could never become 100 percent Americans. A leading sociologist of his time [Edward Ross](#) stated that Jews were “the polar opposite of our pioneer breed. Undersized and weak muscled, they shun bodily activity and are exceedingly sensitive to pain.” Regarding Italians, Ross noted that they “possess a distressing frequency of low foreheads, open mouths, weak chins, poor features, skewed faces, small or knobby crania and backless heads.”

Trump’s [remarks](#) over 120 years later about Mexicans are not too different, and in the same vein as the anti-immigrant demagogues that preceded him:

*“When Mexico sends its people, they’re not sending the best,” Trump said last month when he announced that he was seeking the Republican nomination. “They’re sending people that have lots of problems, and they’re bringing those problems. They’re bringing drugs. They’re bringing crime. They’re rapists and some, I assume, are good people, but I speak to border guards, and they’re telling us what we’re getting.”*

The good news is that many corporations, including Macy’s, NBC, ESPN and two celebrity chefs, have severed business ties with the real estate magnate. While Trump’s popularity may grow with a certain segment within the Republican party, he and his party should always remember the drubbing that Mitt Romney got in the 2012 Presidential elections when he advocated that immigrants “self deport” from the United States. Trump will viciously sue for breach of contract, and it is hoped that courts will be sympathetic to possible defenses that the contracts may have become impossible to follow through by the other party caused by Trump’s inflammatory remarks. Any business association with Trump will cause embarrassment to the other contracting party resulting in business losses, it can be argued.

Trump’s hypocrisy also comes through loud and clear since many of his properties have been built on the backs of the hard and honest labor of immigrants, and the current construction of a luxury hotel in Washington DC

may have undocumented immigrants, according to a [Washington Post article](#). In response to whether he has hired undocumented workers, Trump cavalierly and insensitively [said](#) in a CNN interview, "I can't guarantee it. ... I wish they'd give us the names. We would get rid of them immediately." This statement is legally problematic. An employer verifies all employees on [Form I-9](#), and the USCIS Handbook, [M-274](#), provides clear instructions to employers. If the documents that were submitted by the new hire are facially valid, an employer does not have a clear basis to terminate a worker solely based on a tip that the worker is not legally in the country.

Indeed, the Office of Special Counsel for Immigration-Related Unfair Practices at the Department of Justice remains especially vigilant against employers who may indulge in discriminatory practices. In an [OSC letter to an employer dated October 14, 2011](#), the OSC provided the following caution regarding employers responding to anonymous tips on an employee's immigration status:

*OSC cautions employers to respond to anonymous tips with restraint because these tips may be based, in whole or in part, on such factors as an individual's presumed citizenship status, national origin, accent, or cultural customs. Such factors are not relevant in determining whether an individual is authorized to work in the United States. In addition, whether an employer should respond to an anonymous tip depends upon the specific facts at hand, including the credibility and substantive nature of the information provided.*

An employer is only under a duty to investigate further if it knows or has knowledge that would lead a reasonable person to believe that an individual is not authorized to work in the United States, and a clear example would be if the employer received specific information from the government that certain employees have committed document fraud. See *Mester Mfg. Co. v. INS*, 879 F.2d 561 (9<sup>th</sup> Cir. 1989); *New El Rey Sausage v. INS*, 925 F.2d 1153 (9<sup>th</sup> Cir. 1991). By that token, a mismatch letter from the Social Security Administration that an employee's name and number may not match should not give rise to a conclusion that the employee is not authorized to work in the United States as the mismatch may be caused for a number of other reasons. The same reasoning should apply to an anonymous tip that lacks credibility.

Probably Trump does not care to know these nuances, but he should if he dismisses workers on tips and suspicions especially if the documents verified on the Form I-9 are bona fide, or his company may be penalized by OSC for

unfair immigration related employment practices. This would further damage his party's credibility with Hispanic and new American voters if not already damaged, as Trump shared the podium with Sheriff Joe Arpaio who has a federal conviction for racial profiling.

Like all the other anti-immigrant personalities and movements who have come before him, Trump too will become irrelevant and will be consigned to the trash bin of history if he continues to indulge in demagoguery against Mexican immigrants. Even if Trump tries to justify his anti-immigrant remarks by linking immigrants to crime, these unfortunate incidents are isolated when compared to crimes perpetrated by American citizens. Indeed, [immigrants tend to have lower crime rates](#) than the general population. Trump has been losing business, and his towers if still emblazoned with his name will also embarrass, and will probably soon be viewed in the same way like other symbols that are now despised such as the Confederate flag.