

IMMIGRATION RULING: Court softens law on crimes

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Body

The U.S. Supreme **Court** gave a second chance Monday to thousands of legal immigrants facing deportation for minor **crimes** committed years ago.

In a 5-4 decision, the **court** invalidated part of a 1996 **law** that applied retroactively and had led to the expulsion of hundreds of immigrants convicted of petty **crimes**. The **law** expanded the list of **crimes** that require deportation and stripped **immigration** judges of the power to stop the deportation of even legal immigrants with deep ties to the United States. It has been widely criticized as unduly harsh and has alarmed Georgia legislators and the Georgia Board of Pardons and Parole.

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Typical of those affected by Monday's **ruling** are legal residents who apply for citizenship only to face deportation because of brushes with the **law** that had long since receded into the past. The 1996 **law** required the deportation of most immigrants who received sentences of 12 months or more, even those who spent the 12 months on probation.

The Supreme **Court's** **ruling** means that immigrants who were convicted before the **law** took effect now can ask a judge for a waiver to stop deportation.

Justice John Paul Stevens, writing for the majority, said that precluding an immigrant from "**court** review . . . would give rise to substantial constitutional questions."

He was joined by Justices Anthony Kennedy, David Souter, Ruth Bader Ginsburg and Stephen Breyer.

Justice Antonin Scalia said in dissent that Congress used "utterly clear language" in blocking the **courts** from reviewing deportation orders in cases like the one before the **court**.

Prior to 1996, immigrants could ask for waivers from deportation, and judges granted about half the requests, said Lucas Guttentag, an American Civil Liberties Union lawyer in San Francisco who argued the Supreme **Court** cases decided Monday.

"This is a ringing endorsement of the principle of judicial review and the right of immigrants to go to **court** to challenge their deportation," said Guttentag, director of the ACLU's Immigrants' Rights Project.

Karen Kraushaar, a spokeswoman for the **Immigration** and Naturalization Service in Washington, said the agency does not know how many immigrants will be affected. In 1999, the last year for which she had statistics, the INS deported about 10,000 legal residents because they committed **crimes**. She said she did not know how many of the 10,000 were convicted before the 1996 **law** or how many were convicted for nonviolent **crimes**.

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"We're going to be giving the decision a thorough review in due time," she said.

The ruling involves the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, adopted at a time of anti-immigrant sentiment.

Its goal was to get rid of immigrants convicted of violent crimes and drug offenses, but immigrant advocates say the law unintentionally ensnared people like Mary Anne Gehris of Covington.

Gehris was born in Germany but came to Georgia as a toddler and had an upbringing typical of thousands of American children.

In 1988, when she was 22, Gehris pulled another woman's hair in a spat over a man. She pleaded guilty to a misdemeanor and spent a year on probation.

She had put the incident behind her until she applied to become a U.S. citizen a few years ago.

The hair-pulling incident was enough to trigger deportation proceedings, even though it happened eight years before Congress adopted the 1996 law. Her case received national attention, and Gehris avoided deportation by getting a state pardon that removed her conviction.

"This is just incredible," she said Monday of the Supreme Court ruling. "It's about time a little bit of justice was served."

Marshall Cohen, an Atlanta immigration lawyer, said several of his clients will benefit from the decision. "If someone knew in 1985 that 11 years later they would be facing deportation" by pleading guilty, he said, "they might have done things differently."

He said many who pleaded guilty were told that a plea would have no effect on their immigration status. He said they are incredulous when told a conviction from so far in the past will have such life-altering consequences because of a law passed years later.

"They're in complete disbelief and cannot fathom it," Cohen said. "The law is so illogical and counterintuitive. Most of the people I've tried to explain it to just can't process it, they can't believe it."

Even before Monday's ruling, Cohen and other Georgia immigration lawyers found a sympathetic audience at the state Board of Pardons and Parole. It has pardoned 150 immigrants to spare them from being deported. Most were convicted of misdemeanors.

A law professor who is researching pardons, Elizabeth Rapaport of the University of New Mexico, said her research has turned up no other state that pardons immigrants to keep them from being kicked out of the country.

Georgia legislators last year approved a law requiring judges to warn defendants that a guilty plea could affect their immigration status.

Charles Kuck, an Atlanta immigration lawyer, said the 1996 law severely weakened the power of immigration judges to use common sense in deciding who deserves a reprieve. "It made them deportation machines," he said. "Now they have the ability to grant some relief in appropriate situations."

Graphic

Photo:

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Mary Anne Gehris of Covington, who came to the United States from Germany as a baby and served 12 months' probation in the 1980s, was one of those once ensnared by the law. / KENT D. JOHNSON / Staff Graphic:

OTHER CASES

In other actions Monday, the Supreme Court:

- > Held that copyright laws require big media companies to get free-lancers' permission before posting their work online.
- > Let stand a lower court ruling that held an affirmative action program for colleges and universities in Texas discriminated against whites.
- > Held that mushroom producers cannot be forced to contribute to a marketing campaign that benefits competitors, even though the ads are designed to benefit the entire industry.
- > Agreed to use a former Virginia college professor's allegation of reverse discrimination to clarify the filing deadline for federal job-discrimination complaints.
- > Turned aside a National Rifle Association challenge to a provision of the Brady gun-control law that allows the FBI to retain information about gun buyers.
- > Turned down an appeal to hear the case of former top Teamsters official Ron Carey, convicted of illegal fund-raising practices during the 1996 elections.
- > Agreed, in a case from Arkansas, to clarify how maternity or other medical leave offered by employers counts against the 12-week leave guaranteed by the federal government.

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