

Justices rule on deporting

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Body

WASHINGTON -- The Supreme Court **ruled** Tuesday that a foreign national living here legally should not be automatically **deported** if he is convicted of a low-level drug offense that would be a misdemeanor under federal law.

The 8-1 decision could affect thousands of permanent legal immigrants, often known as green-card holders, who, because of certain state convictions, face **deportation** without a chance to plead their case before a judge.

The **ruling** ensures that legal immigrants can fight **deportation** after they have been convicted of simple drug possession or other offenses that are misdemeanors under the federal Controlled Substances Act even though they are classified as felonies in a state law.

The decision, drawing the dissent of only **Justice** Clarence Thomas, rejected a position taken by the Bush administration and resolved a split in views among lower courts.

Federal law requires green-card holders who have been convicted of an "aggravated felony" to be **deported** without an opportunity for appeal. The case tested whether simple drug possession could rise to the level of "illicit trafficking" and an "aggravated felony" because the offense was a state felony.

Jose Antonio Lopez, a Mexican national who became a legal permanent U.S. resident in 1990, was convicted in South Dakota of aiding and abetting possession of cocaine. He was sentenced to five years in prison and released after 15 months for good conduct.

Federal officials began the **deportation** process, contending that the felony status of drug possession in South Dakota qualified it as an "aggravated felony" requiring Lopez's mandatory banishment.

Justice David Souter wrote for the majority that a state offense should lead to automatic **deportation** only if it was a felony under the federal Controlled Substances Act.

Souter said that helping someone else possess cocaine does not constitute "illicit trafficking" under federal law: "The government's reading would render the law of alien removal ... dependent on varying state criminal classifications," rather than code written by Congress.

Lopez has been in Mexico since his January **deportation**. Robert Long, his lawyer, said Lopez would now have a chance to argue that he should be allowed to return.

Justice Department spokesman Kathleen Blomquist said officials had not determined how the **ruling** would affect recent **deportations** and pending cases.

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