

Drugs and deportation; Should two minor offenses erase any chance of forgiveness?

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Body

JOSE ANGEL Carachuri-Rosendo was deported because of one tablet of Xanax.

This is the essence of a [case on which the Supreme Court will hear arguments Wednesday](#). Mr. Carachuri-Rosendo was convicted in Texas of marijuana possession and, later, of possessing that tablet of Xanax, an anti-anxiety drug for which he had no prescription. Both are misdemeanors; he served a 10-day jail sentence for the Xanax. [But the federal government argued in immigration court](#) that had Mr. Carachuri-Rosendo been prosecuted in the federal system, the Xanax charge could -- as a second offense -- have been a felony. And, that could trigger mandatory deportation, stripping him of any chance to present a case for mercy in immigration court.

Like many defendants whose cases end up before the Supreme Court, Mr. Carachuri-Rosendo does not present as a sympathetic character. He has been convicted of domestic-violence assault and, twice, of driving with an invalid license. He was deported to Mexico in 2008, sneaked back into the country and was once again arrested with a small amount of marijuana; this time, serving six days in jail before again being sent back to Mexico.

But these additional offenses don't figure into the legal issues likely to be considered by the Supreme Court -- and, as in many such cases, if the court gets its decision wrong, people potentially far more deserving of another chance than Mr. Carachuri-Rosendo could be hurt. Mr. Carachuri-Rosendo had been a lawful permanent resident since 1993 and is subject to deportation for any criminal act, even a minor one. But usually, after serving time or paying a fine in minor cases, legal immigrants can appear before an immigration judge and plead their case for staying in the United States. This is not so for legal immigrants convicted of aggravated felonies, such as murder or drug trafficking. Here, the immigrant has no right to challenge deportation, and immigration judges have no choice but to order the removal. The government claims that Mr. Carachuri-Rosendo's twin drug misdemeanors put him into this category.

The court should conclude that the government is wrong in this case. Congress intended mandatory deportation for drug traffickers and other serious offenders, not for those who possess minuscule amounts of marijuana or one anti-anxiety pill. Mr. Carachuri-Rosendo is seeking the opportunity to convince an immigration judge that he should stay in this country. The judge may well disagree. But a questionable maneuver by the government should not deny him or others like him of a chance to make a case.

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