

# Supreme Court delays Clinton plans to deport thousands of legal immigrants

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10 March 1999

The Supreme Court decided Monday to leave unchanged a series of lower court rulings that challenged the legality of 1996 laws used to deport legal immigrants for minor criminal offenses without judicial review. The Clinton administration urged the Supreme Court to overturn the legal protections, arguing that the lower courts' rulings had "led to significant delays in the removal of such aliens" despite "Congress' clear intent that removal of criminal aliens be expedited."

In 1996 the Republican Congress with the full support of President Clinton passed the Antiterrorism and Effective Death Penalty Act and the Illegal Immigration Reform and Immigrant Responsibility Act. Among other things, the two laws stripped noncitizen residents of the right to appeal deportation orders to federal courts and eliminated most deportation waivers due to mitigating factors, such as separation from children and family.

The laws gave the Immigration and Naturalization Service (INS) unprecedented powers to deport immigrants who had lived in the US for many years, in many cases with their families, even for the most minor infractions. This led to a 70 percent increase in the number of immigrants detained by the INS. By the Clinton administration's own accounts, 23,000 "removal aliens" are being held in federal prisons and 54,000 more are state prison inmates.

In one notorious case INS officers in El Paso, Texas rounded up 116 Mexican immigrants, including pregnant women, disabled workers and parents with children, because they had citations for driving under the influence of alcohol. Many of the detainees had committed the infractions years before the law passed. Commenting on the legality of applying the law retroactively, an INS spokesman said, "Legal residents

do not have the same rights as American citizens."

At the time of its passage, Congress did not stipulate whether the new law could be applied retroactively and shortly afterwards, the INS Board of Immigration Appeals ruled that only those who committed crimes after the law was implemented could be deported. In February 1997, however, Attorney General Janet Reno overturned the board's ruling and issued an executive order declaring that the new treatment applied to all infractions that a noncitizen committed in the past, even if they did not merit deportation at the time.

Appellate judges in New York, Boston and San Francisco challenged Reno, ruling that Congress either did not intend, or did not have the constitutional authority, to overturn the jurisdiction of the federal courts. The lower court judges also rejected the decision to put the law into effect retroactively.

In *Reno v. Navas*, the 2nd Circuit Court in New York ruled on the case of Saul Navas, a 22-year-old native of Panama, who after legally residing in the US for nearly a decade was convicted in 1995 of robbery and possession of stolen goods. Navas appealed to an immigration judge and won relief from deportation, but his case was still pending in 1997, when under the attorney general's retroactive application of the new law, his relief from deportation was canceled, and he was ordered deported.

In June 1997, US District Judge Jack Weinstein ruled that Congress did not intend to strip away the authority of federal courts to review deportation orders. Weinstein argued that Reno's interpretation of the law allowed for a legal permanent residents twice convicted of "turnstile jumping in the New York City subway system" to be deported without an opportunity to have their case heard by a federal court. In ordering Navas' release the judge rejected the Justice Department's

retroactive interpretation of the law. Weinstein's ruling was later upheld by the 1st Circuit Court of Appeals in Boston in the case of *Reno v. Goncalves*.

In *INS v. Magana-Pizano*, the 9th Circuit Court of Appeals in San Francisco ruled that Congress did not have the constitutional power to eliminate judicial review and the writ of habeas corpus. In that case, Daniel Magana-Pizano, a Mexican immigrant who entered the country legally with his parents at the age of five, was facing deportation after pleading guilty to a single misdemeanor drug offense.

Throughout this period of legal challenges, the Clinton administration has argued that Reno's ruling on retroactivity, known as the Soriano decision, was unreviewable in any federal court.

In effect, the Supreme Court's action means that within the seven East Coast states under the 1st and 2nd Circuit Court's jurisdiction, the 1996 law no longer has the retroactive effect and immigrants facing deportation can be heard by a US district judge.

However, by avoiding a legal ruling on the constitutional merit of the 1996 laws, the Supreme Court left open the possibility of using another case to validate the undemocratic laws. Moreover, the chief justices decided to set aside the 9th Circuit Court's ruling in California-the only ruling that challenged the constitutionality of the 1996 laws. The court sent the case back for further consideration in light of its February 24 ruling that upheld selectively targeting immigrants for deportation based on their political beliefs.

On Monday, Justice Department lawyers argued if the lower courts' protections were left intact the decision could affect tens of thousands of pending deportation cases. Within the context of an ever-greater attack on the rights of immigrants, the Clinton administration has managed to stake out an even more right-wing position that the ultrareactionaries on the Supreme Court.



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