More reactionary rulings from US Supreme Court

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Striking out again in opposition to democratic rights, the US Supreme Court issued four 5-4 rulings last week restricting the right to sue for discrimination, depriving prisoners of legal avenues to challenge draconian sentences, and expanding the power of the police to arrest people and drag them to jail in handcuffs for minor traffic offenses.

Having ordered the Florida vote count halted to install George W. Bush as United States president, the current right-wing Supreme Court majority is pressing to overturn the gains in civil rights achieved during the 1960s.

The most far-reaching of last week's rulings is *Alexander v. Sandoval*, which eliminates private lawsuits to prevent programs receiving federal funds from engaging in discriminatory practices. The Court held that Section 601 of Title VI of the Civil Rights Act of 1964 only prohibits "intentional" discrimination based on race, color or national origin. Since programs rarely declare that they are engaging in purposeful discrimination, most private lawsuits are brought under federal regulations enacted pursuant to Section 602, which prohibit practices with a "disparate impact" on protected classes.

Martha Sandoval brought a class action complaint challenging the administration of Alabama's driver's license examinations in English only. Since the state receives federal highway funds and the "English only" tests had a disparate impact on people who speak foreign languages, the lower court issued an injunction forcing Alabama to abandon the practice. The Supreme Court reversed, thus allowing Alabama to resume its discriminatory testing procedure.

Rejecting decades of Supreme Court precedent as well as dozens of lower court decisions, Associate Justice Antonin Scalia—the leader of the Court's extreme right wing—declared that the Court was not bound to follow the practice of allowing private lawsuits, which existed when the Civil Rights Act was passed into law in 1964. Describing the civil rights expansion of the 1960s as "the *ancien regime*," Scalia—joined by Chief Justice William Rehnquist and Associate Justices Sandra Day O'Connor, Anthony Kennedy and Clarence Thomas—ruled that no "freestanding private right of action" exists to enforce anti-discrimination laws. That means any enforcement will be left to the Bush administration and its attorney general, the arch-reactionary John Ashcroft.

Associate Justice John Paul Stevens issued a sharp dissent, joined by Associate Justices David Souter, Ruth Bader Ginsburg and Stephen Breyer, pointing out that the decision is "unfounded in our precedent and hostile to decades of settled expectations."

In a pair of related decisions, *Daniels v. United States* and *Lackawanna County District Attorney v. Coss*, the same 5-4 majority ruled that prisoners cannot challenge sentence enhancements under so-called "career criminal" laws on the basis that the earlier convictions used to enhance the sentences were themselves obtained unconstitutionally. This ruling paves the way for both the United States government and the various states to lock people up for decades for relatively minor crimes if they have convictions in the past, no matter how unfair and tainted those prior proceedings might have been.

Finally, in *Atwater v. City of Lago Vista*, the Supreme Court upheld 5-4 the power of Texas police to arrest and jail a mother for the infraction of driving without her children's seatbelts fastened. In this case the majority decision was written by Souter, who usually joins Stevens, Ginsburg and Breyer in dissent, and the dissenting opinion was by O'Connor, who usually sides

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with the right-wing majority.

Breaking with the well-established rule that the constitutionality of seizures depends on balancing “the degree of the intrusion” with “the governmental interest at stake,” Souter brushed aside Ms. Atwater's complaint. She was handcuffed, placed in a police car, and taken to the local police station. Police officers then asked her to remove her shoes, jewelry and glasses, and empty her pockets. They took her photograph and placed her alone in a cell for about an hour, after which she was taken before a magistrate, and released on $310 bond. All of this was for a traffic ticket punishable by a maximum $50 fine.

Despite widespread evidence of racial profiling by police agencies throughout the United States, the Supreme Court, in decision after decision, has expanded the authority of police to use traffic stops as pretexts for all sorts of searches and seizures and has turned the Fourth Amendment's prohibition against such police abuse into a virtual dead letter.

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