

US Supreme Court ruling curbs “identity theft” arrests of immigrants

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The United States Supreme Court has ruled unanimously that the government must prove that a defendant charged with aggravated identity theft knowingly used the identification of another person. The May 4 ruling came in the case of *Flores-Figueroa v. United States*.

The government has used the “identity theft” charge, which carries a mandatory two-year prison term consecutive to certain other crimes (including various immigration related crimes), to extract pleas to lesser offenses and quickly process cases against hundreds of immigrants rounded up in well-publicized workplace raids around the country.

The decision means that prosecutors will rarely be able to use this tactic against unauthorized immigrants, because the vast majority of them have no idea whether the documents they use to obtain employment actually belong to other people as opposed to fictitious individuals. As a practical matter, however, the decision offers little relief from the miserable way that the court system treats undocumented immigrants. It merely curbs one of the many tools the government has to terrorize this section of the working class.

The defendant in the case, Ignacio Carlos Flores-Figueroa, is a Mexican citizen who began working at a steel plant in East Moline, Illinois, in 2000. The papers he originally used to gain employment were not those of a real person.

But in 2006, Mr. Flores-Figueroa presented his employer with different papers, and the numbers on the new Social Security and alien registration cards he used were numbers assigned to other people. The government charged him with entering the United States without inspection, mis-using immigration documents, and aggravated identity theft. Mr. Flores-

Figueroa pled guilty to the first two offenses, but moved for a judgment of acquittal to aggravated identity theft, because there was no proof that he knew the numbers were assigned to other people.

Despite the plain language of the law in question, both the Federal District Court, and then the Eighth Circuit Court of Appeals, accepted the government’s argument that it need not prove such knowledge. In upholding the District Court’s decision, the Court of Appeals let stand the 75-month sentence Mr. Flores-Figueroa received for the crime of working without papers. In its relatively short opinion earlier this month, the Supreme Court recognized that the rules of “ordinary English grammar” compelled its decision.

Before the ruling, the charge of aggravated identity theft had served as the government’s first step in assembly-line justice for immigrants.

In the 2008 Postville, Iowa, workplace raid alone, the government used aggravated identity theft charges against 270 workers, all of whom accepted plea deals in which they agreed not to contest deportation.

The Obama administration ordered a similar workplace raid in Bellingham, Washington, in late February. Afterward, Secretary of Homeland Security Janet Napolitano claimed she had no prior knowledge of the raid and ordered a review. In fact, the review undertaken is only meant to give the appearance of “change,” and hide the administration’s real agenda.

Obama’s budget provides for an expansion of the Secure Communities program designed to help local law enforcement nationwide to quickly identify undocumented immigrants through the use of a federal immigration database, and put them on track for deportation. The expanded program will undoubtedly lead to increased racial profiling and arrests of Hispanics for minor offenses so that they can be

fingerprinted to determine if they are “legal.”

The Obama administration has also done nothing about the arrest quota that teams of US Immigration and Customs Enforcement (ICE) agents are required to meet each year. In 2006, the quota was increased from 125 fugitive immigration arrests per team per year to 1,000.

The new Supreme Court ruling will do little to stop the expanded attack on undocumented immigrant workers now being embraced by the Obama administration. These workers will still be held in custody pending the outcome of their cases, due to their supposed flight risk and danger to public safety. The quickest way for them to get out of jail will still be to plead guilty to some criminal offense, no matter the merits of the government’s case, and agree to deportations.

These deportations frequently result in children losing one or both parents, exacerbating the conditions of poverty facing immigrant families, who are being especially hard-hit by the current economic crisis.



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