

# US Supreme Court sides with police who broke into home and shot sleeping couple

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The Supreme Court of the United States ruled unanimously on Tuesday in favor of the police in a case involving Constitutional issues relating to an illegal search and entry in violation of the Fourth Amendment which resulted in a man and his pregnant wife being shot 15 times.

The 8-0 decision in *County of Los Angeles vs. Mendez* overturns a Ninth Circuit Court decision that found in favor of Angel Mendez and vacated an award of \$4 million granted by the Ninth Circuit.

Notably, the court reached its unanimous decision without the input of the conservative Trump appointee Neil Gorsuch, who did not vote since arguments in the case were heard before he was sworn in earlier this year.

On October 1, 2010, 12 Los Angeles County Sheriff's Deputies, acting upon the word of an informant, made plans to sweep the home of Paula Hughes in the town of Lancaster in search of an at-large parolee. Deputies were told that a man and a "pregnant lady" were living in a plywood structure in Hughes' backyard. The deputies did not notify Hughes of the sweep; they had not obtained a search warrant, nor had Hughes given them permission to search her property.

Twelve deputies approached Hughes' house. Two of them, Deputies Christopher Conley and Jennifer Pederson, were assigned to clear the back of the property. Conley and Pederson made note of the plywood shack. A power cord ran from Hughes' house to the 343 square foot structure. Clothes hung outside and the shack was equipped with an air conditioning unit—all things that signaled that the shed-like structure was inhabited.

Neither Pederson nor Conley knocked on the door of the shack, nor announced their presence. Conley opened the door and pulled aside a blanket which had

been hung over the door for insulation.

Angel Mendez and his wife, Jennifer, who was seven months pregnant, lay asleep in the shack. Hughes had allowed them to live in the shed until they could recover from financial hardship. As deputies entered the structure, Angel woke and made to stand up, attempting to put down the BB gun he kept close to shoot at rats.

"Gun!" Conley shouted; he and Pederson then shot Mendez and his slumbering wife 15 times. Angel Mendez was severely wounded and ended up losing most of his right leg. Jennifer Mendez was shot in the back and sustained a shattered collarbone.

The Mendezes sued Los Angeles County in federal court on the grounds that the deputies had violated their Fourth Amendment rights against illegal search and seizure and excessive force. The court ruled in their behalf, noting that the deputies were well aware that the shack was inhabited, having been informed of the fact in briefings and having seen evidence of habitation around the outside of the shed. Moreover, the deputies' search did not merit any exception for a warrantless search, and they had further violated the Fourth Amendment by failing to alert the couple of their presence.

The court awarded the Mendezes \$4 million in damages for the shooting, as well as attorneys' fees and two penalties for unreasonable search and seizure. On appeal, the Ninth Circuit Court concurred with the lower court with the exception of the so-called "knock and announce" Fourth Amendment penalty.

Invoking the so-called "provocation doctrine," the Ninth Circuit ruled that Pederson and Conley's unreasonable entry into the Mendez's shelter had provoked a "violent response" from Mendez and his BB gun.

Los Angeles County petitioned for a review of the case by the Supreme Court which subsequently heard arguments on March 22. Justice Sonia Sotomayor initially noted that the Mendezes had a Second Amendment right to bear arms, and so police should expect to be confronted by armed homeowners in the course of an illegal entry. Justice Elena Kagan made similar arguments.

Nevertheless, the court handed down a unanimous decision affirming the court's hostility to the provocation doctrine as expressed in *City and County of San Francisco v. Sheehan* where the court upheld the concept of "qualified immunity" for officers who had provoked a violent confrontation with a mentally ill woman and shot her.

In the *Mendez* decision, Justice Samuel Alito called the provocation rule "a novel and unsupported path to liability in cases in which the use of force was reasonable."

The court vacated the damages awarded by the court, sending the case back to the Ninth Circuit with instructions to reconsider whether the Mendezes can be awarded damages strictly on the merits of the warrantless entry; the court will not be allowed to consider the issues of police provocation or excessive force.

Los Angeles County Sheriff's Department (LASD) has a history rife with abuse and brutality. In a state that jealously guards the opacity of police records, the LASD stands as one of the most protective of its officers.

Last June, in response to threats from the Association for Los Angeles Deputy Sheriffs (ALADS), a union representing LASD deputies, the LASD removed from its public information database all information on investigations into police shootings, except for racial information.

The ALADS union tenaciously fights transparency or accountability; it currently is working to keep the Sheriff from releasing to prosecutors the names of deputies who have had disciplinary actions or who have been charged with crimes.

The crimes of the LASD and other police forces in Los Angeles County have abounded. Between 2000 and 2016, at least 1,300 people in the county were shot by police. A study published in the *Guardian* revealed that, per capita, Los Angeles County was the 11th

deadliest county in the United States for police shootings in 2015. Very seldom were officers charged in these shootings.

The Supreme Court has legitimized this criminal violence with one reactionary ruling after another. It frequently invokes the reactionary "qualified immunity" doctrine that limits remedies for excessive force.

The right-wing judges did not stand up for the Second Amendment right to bear arms that is so frequently thrown out as a bone by right-wing politicians. The liberal judges, meanwhile, assented to the reactionary ruling, ultimately forsaking Fourth Amendment rights for the right of police to shoot and maim without any significant restrictions.

John Burton, president of the board of directors of the National Police Accountability Project and WSWS writer, noted the Mendez decision was part of a definite trend and "another stone removed from the edifice of Fourth Amendment rights."

"The whole thing is political," he told the WSWS. "The courts want to empower the police as much as possible and limit access to remedies for police violence."

The important questions in the Mendez case, he pointed out, are not those of jurisprudence or democratic ideals enshrined in the Bill of Rights, but those of class tensions. Such decisions allow constitutional protections to be taken away "piece by piece, instead of all at once."



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