

US Supreme Court rules government can indefinitely detain immigrants years after release from criminal custody

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In a 5-4 decision Tuesday, the US Supreme Court upheld the federal government's interpretation of a law in a manner that enables it to indefinitely detain immigrants years after they have been released from criminal custody for certain offenses, while they await a decision on their immigration status.

The ruling emboldens the Trump administration in its fascistic war on immigrants, giving Immigration and Customs Enforcement (ICE) agents a free hand to hunt down and detain, without bail, any migrant, documented or undocumented, who served time for a criminal offense, including charges as minor as marijuana possession or the illegal download of music. The ruling creates a class of US residents who can be disappeared into America's network of immigration detention centers over actions that took place years in their past.

The American Civil Liberties Union (ACLU), which represented the plaintiffs in the case, released a statement on Twitter Tuesday denouncing the decision. "For two terms in a row now," the statement declared, "SCOTUS [the Supreme Court of the United States] has endorsed the most extreme interpretation of immigration detention statutes, allowing mass incarceration of people without any hearing, simply because they are fighting a deportation charge."

At question in the case, *Nielsen v. Preap*, was a recent ruling by the Ninth Circuit United States Court of Appeals that a 1996 law enacted under Democratic President Bill Clinton stipulated that immigrants with a criminal conviction could be detained by immigration agents without a bond hearing only if they were arrested within 24 hours of their release from prison.

Justice Samuel Alito, writing for the extreme right-

wing majority, used sophistry, including an argument based on faulty grammar, to reverse the Ninth Circuit's ruling and justify the unconstitutional and arbitrary detention of immigrants, including legal immigrants holding green cards.

"As we have held time and again, an official's crucial duties are better carried out late than never," Alito declared, with the concurrence of the four other Republican appointees on the court.

The ruling overturns the status quo and puts thousands of immigrants with a criminal conviction on their record at risk of being locked up by ICE while their case is pending.

Fathers and mothers will be torn from their families with no hope of being released while they await a deportation hearing, placing them at risk of abuse or even death in inhuman conditions. A 40-year-old Mexican man died on Monday after being taken into Customs and Border Protection custody on Sunday. Reports indicate he had been suffering from flu-like symptoms. In February, a 24-year-old Honduran woman delivered a stillborn baby in an ICE detention facility in Texas just four days after she had been detained.

Justice Stephen Breyer, who authored the dissent, took the unusual step of reading it aloud from the bench so as to underscore the seriousness of the issues involved. "In deciphering the intent of the Congress that wrote this statute," he said, "we must decide—in the face of what is, at worst, linguistic ambiguity—whether Congress intended that persons who have long since paid their debt to society would be deprived of their liberty for months or years without the possibility of bail.

“We cannot decide that question without bearing in mind basic American legal values: the Government’s duty not to deprive any ‘person’ of ‘liberty’ without ‘due process of law.’”

Breyer was joined in dissent by the three other Democratic-appointed justices—Ruth Bader Ginsburg, Sonia Sotomayor and Elena Kagan.

Strict enforcement of the court’s ruling will spur a dramatic growth of the already expansive network of immigrant detention centers, as thousands more are arrested. This will only add to the backlog of immigration cases, resulting in an increase in the amount of time it takes for a case to reach its conclusion.

“The greater importance of the case,” Breyer noted in his dissent, “lies in the power that the majority’s interpretation grants the government. It is a power to detain persons who committed a minor crime many years before. And it is a power to hold those persons, perhaps for many months, without an opportunity to obtain bail.”

“Under the government’s view,” Breyer added, “the aliens subject to detention without a bail hearing may have been released from criminal custody years earlier, and may have established families and put down roots in a community.”

The use of the 1996 law to impose this regime of legal terror on immigrants underscores the bipartisan character of the assault on the rights of immigrants and democratic rights more generally. President Bill Clinton signed into law the sweeping Illegal Immigration Reform and Immigrant Responsibility Act, which expedited deportation proceedings for those convicted of certain crimes and authorized the construction of barriers and fencing along the US-Mexico border.

Republican President George W. Bush transformed the Immigration and Naturalization Service into ICE and Customs and Border Protection (CBP) when the immigration and border control system was brought under the umbrella of the newly formed Department of Homeland Security in 2003. Under Democratic President Barack Obama, approximately 3 million people were deported from the US, more than in any previous administration.

Trump, who ran on an openly chauvinist and anti-immigrant platform, has dramatically escalated the war

on immigrants, whose central purpose is to divide the working class and establish a police state framework for attacking the working class as whole. Without any significant protest from the Democrats or the media, and in violation of international law, the administration has eliminated the right of workers to come into the US and apply for asylum. The Democrats have done nothing to mobilize popular opposition to Trump’s decision to declare a national emergency in order to build a wall on the US-Mexico border.

The Supreme Court’s decision in *Nielsen v. Preap* marks yet another step in the dangerous expansion of the police powers of the state, which can and will be turned against the entire working class, not just immigrants. With each new law, court decision and executive order, the US immigration system increasingly takes on the character of an all-embracing gulag, where potentially millions are stripped of all democratic rights.



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