

US Supreme Court grants border police a license to kill

Jacob Crosse
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On Tuesday, the US Supreme Court ruled that Jesús Hernández and María Guadalupe Güereca, the parents of Sergio Adrián Hernández Güereca, who was murdered by a US Border Patrol agent in 2010, do not have legal standing to sue the agent responsible for his death.

The 5-4 ruling effectively gives border police a green light to kill, allowing them to use whatever force they deem necessary while enforcing US anti-immigration laws. In the ruling, the court split between the Republican-appointed right-wing majority and the Democratic-appointed “liberal” bloc.

On June 7, 2010, US Border Patrol Agent Jesus Mesa Jr., while standing on US territory, murdered 15-year-old Sergio, who was unarmed and playing with a group of friends in a concrete culvert that rests on the invisible line that separates El Paso, Texas from Ciudad Juarez, in Mexico. The agent justified the shooting at the time by claiming he “feared for his life” after having been “surrounded” and pelted with rocks by the youths.

Cell phone video released following an investigation proved that the agent was lying. His life was never in danger and no rocks struck him.

The video confirmed that nearly 60 yards separated the border cop from young Sergio, who was running in the opposite direction of Mesa when the agent fired at least two rounds into the 15-year-old, including one that struck him in the face, killing him.

Subsequent internal investigations by the Border Patrol cleared Mesa of any wrongdoing. He was never charged with a crime and several US courts ruled against Mesa’s extradition to Mexico to face justice.

For the past three years, Jesús Hernández and María Guadalupe Güereca, who, like their deceased son, are Mexican nationals, have sought legal standing in the

US to sue Mesa for damages, arguing that the agent violated their son’s Fourth and Fifth Amendment rights, which protect a person from unreasonable search and seizure and assure due process.

Lower courts rejected their standing to sue and the parents took the case to the Supreme Court. The majority opinion authored by Justice Samuel Alito denies Jesús and María their legal rights, using the fact that the victim was on the Mexican side of the border when he was shot to claim that allowing the parents to sue for damages would compromise executive authority in “foreign relations,” as well as “national security” interests in policing the border.

Tuesday’s decision followed a 5-4 Supreme Court ruling last Friday removing the last hurdle to implementing openly class-based immigration restrictions. The so-called “wealth test” or “public charge” rules were first revealed by the Trump administration in August of 2019. They allow the government to deny admission or permanent legal status to documented immigrants unless they can show that they would not require public assistance such as food stamps, Medicaid or housing subsidies.

In Friday’s ruling, the court lifted a lower court decision blocking implementation of the Trump executive order in the state of Illinois. Last month, the court, again by a 5-4 margin, vacated an injunction imposed by a judge in New York blocking the regressive policy elsewhere in the country.

Both court rulings are examples of the Trump administration usurping the appellate court process by seeking “emergency relief” from the Supreme Court, relying on the right-wing majority to quickly lift injunctions imposed by lower courts.

In a recent paper, University of Texas law Professor Stephen Vladeck noted that Trump has used the office

of the Solicitor General to file at least 21 such applications with the Supreme Court, compared to the eight applications filed during the combined 16 years of the Bush and Obama administrations.

Trump's use of the Supreme Court in this fashion has allowed the administration to achieve its desired result in about 65 percent of the cases where it asked the court to intervene, according to Vladeck. By these means, Trump has overcome lower court injunctions against policies such as his travel ban on majority-Muslim countries.

In a widely reported dissenting opinion, Justice Sonia Sotomayor said of the Trump administration's use of emergency relief, "It is hard to say what is more troubling: that the Government would seek this extraordinary relief seemingly as a matter of course, or that the Court would grant it."

Implying that the Republican majority was serving as a rubber stamp for the president, Sotomayor warned that the court was setting a dangerous precedent, which "upend[s] the normal appellate process, putting a thumb on the scale in favor of the party that won a stay."

These Supreme Court rulings follow two developments in California that exemplify the concerted effort by all levels of the state to enact the Trump administration's sweeping anti-immigrant measures.

In San Francisco, Immigration and Customs Enforcement (ICE) agents brazenly violated a recently enacted state law that prohibits ICE agents from executing immigration arrests at a courthouse without a signature from a judge, as opposed to an immigration magistrate.

Two immigrants were arrested by plainclothes ICE agents while they were on their way to the Sonoma County Superior Court. The first, an unnamed 37-year-old man, was actually in the hallway on the second floor of the courthouse when he was confronted by the agents. A second man, whose case was not related to that of the first individual, was confronted in the parking lot outside the courthouse by an agent who at first appeared to offer the man a handshake before seizing him by the elbow and revealing his federal badge. The two men were whisked away in unmarked vehicles and quickly driven to an unknown detention facility.

The second development involves the San Diego Sheriff's department, which became the first local law agency in a group of five states—including California, Oregon, Colorado, Connecticut and New York—to agree to share records of people who were arrested with the immigration police, including ICE and Customs and Border Protection.

In previous weeks, ICE officials, not judges, had issued subpoenas to local police departments in each state demanding information on "suspected criminal aliens." These specific states were targeted by the Trump administration because of their support for "sanctuary cities," where local and state police are restricted in sharing information or coordinating with federal immigration agencies.



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