



LEGAL ACTION CENTER

AMERICAN IMMIGRATION COUNCIL

Supreme Court Injects Reason into Immigration Felony Definition

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Washington D.C. - Yesterday, the U.S. Supreme Court voted unanimously in [*Carachuri-Rosendo v. Holder*](#) that a lawful permanent resident who is convicted of minor drug possession offenses does not warrant classification as having been convicted of an "aggravated felony." As a result, the Court held that Mr. Carachuri-Rosendo cannot be deported without an opportunity to make a case for why he should be allowed to remain in the United States.

Many individuals like Mr. Carachuri-Rosendo, who had two misdemeanor convictions in the criminal court system, then face a separate set of rules under the federal immigration court system. The government had urged the Court to adopt a rule which would allow the immigration authorities to reclassify a misdemeanor conviction as an aggravated felony, which would subject even a lawful permanent resident to mandatory deportation.

The Supreme Court found the folly in this approach and notes in its decision, "It is quite unlikely that the 'conduct' that gave rise to Carachuri-Rosendo's conviction would have been punished as a felony in federal court." Applying a common sense approach, the court found that Carachuri-Rosendo's "petty simple possession offense is not typically thought of as an 'aggravated felony.'"

Before 1996, only the most serious criminal convictions could be defined as aggravated felonies. In 1996, Congress expanded the definition of aggravated felonies - lengthening the list of crimes that could trigger deportation for an immigrant, including even minor crimes where the person did not serve any jail time.

"The Supreme Court's decision restores a level of measure and rationality to immigration policies that often are unnecessarily strict and unforgiving," said Beth Werlin of the American Immigration Council's Legal Action Center.

"The decision is an important step toward addressing some of the absurdities of the immigration laws passed in 1996 that treat a shoplifter and a murderer in the same manner. Those laws have largely taken away the ability of immigration judges to look at the facts of a case and determine if the punishment fits the crime," said Benjamin Johnson, Executive Director of the American Immigration Council.

In far too many cases, immigration judges still lack discretion. Congress now should follow the Supreme Court's lead and restore immigration judges' discretion to take into account the individual circumstances of each case before taking the drastic measure of ordering a person deported.

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