

# Court bars deportation for minor drug offenses

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By Jim Vicini

WASHINGTON (Reuters) - The Supreme Court ruled on Tuesday that legal immigrants cannot be deported when convicted of relatively minor drug-possession offenses, a decision likely to affect thousands of people.

By an 8-1 vote, the high court handed a setback to the Bush administration and ruled the immigrants cannot be deported for drug offenses that are felony crimes under some state laws, but less serious misdemeanors under federal law.

A number of civil rights, immigrant advocacy and criminal defense groups, along with former U.S. government immigration lawyers, had urged the Supreme Court to reject the administration's position.

A 1996 federal immigration law requires the deportation of anyone convicted of an "aggravated felony," which includes a felony punishable under the federal drug law. That definition does not cover state felony offenses that are treated as misdemeanors under federal law, the high court ruled.

In 2005, the United States deported about 77,000 immigrants with criminal records. About 7,000 of them had arrests for drug possession.

The case before the court involved Jose Antonio Lopez, a Mexican native who became a legal resident in 1990. He was arrested in South Dakota in 1997 and pleaded guilty to cocaine possession. He served 15 months of a five-year prison sentence.

While his offense is considered a felony in South Dakota, under federal law, a first offense for possessing cocaine is a misdemeanor.

U.S. officials moved to deport him and federal courts upheld his deportation. The Supreme Court disagreed. Justice David Souter said for the majority that mere possession of a small amount of drugs is not a felony under federal law.

The administration's interpretation of the law "would often turn simple possession into trafficking ... and that result makes us very wary of the government's position," Souter wrote.

Only Justice Clarence Thomas dissented. He said the court's interpretation of the law will have a significant effect on deportation proceedings involving state drug possession offenses.