

# Top court eases rules for foreigners to try to stay in US

Associate Press

June 16, 2008

WASHINGTON (AP) — The Supreme Court made it easier Monday for some foreigners who overstay their visas to seek to remain in the United States legally.

The court ruled 5-4 Monday that someone who is here illegally may withdraw his voluntarily agreement to depart and continue to try to get approval to remain in the United States.

The decision essentially embraced a proposed Justice Department regulation governing the treatment of similar cases in the future.

Samson Dada, a Nigerian citizen, stayed beyond the expiration of his tourist visa in 1998. He married an American the following year and soon began trying to obtain a visa as an immediate relative of a citizen. But Dada and his wife apparently failed to submit some documents, causing immigration officials to deny the visa.

Dada has been trying again to obtain the visa, but immigration authorities meanwhile have ordered him to leave the country.

He agreed to leave voluntarily, which would allow him to try sooner to re-enter the country legally than if he had been deported.

The court's task was to decide whether he could withdraw his voluntary agreement to leave the country and continue to try to adjust his status while in the United States.

Immigration authorities recently ruled that Dada had entered a "sham" marriage in order to stay in the United States, but that finding was not part of the court's consideration.

Justice Kennedy wrote the majority opinion, joined by his four liberal colleagues. The four conservative justice dissented.

Justice Antonin Scalia said, "The court lacks the authority to impose its chosen remedy."

The case is Dada v. Mukasey, 06-1181.