

EDITORIAL

## **JUSTICE FOR IMMIGRANTS**

The New York Times  
October 3, 2006

The Supreme Court starts off its term today with arguments in a pair of immigration cases that turn on a technical issue but could have a considerable impact on the real world. If the court gives the words “illicit trafficking” the wrong interpretation, as some lower courts have, a significant number of legal immigrants could be unjustly uprooted and deported, or given unduly harsh criminal sentences.

Federal immigration law, quite reasonably, imposes special conditions on legal immigrants who are convicted of “aggravated felonies.” The law says that “illicit trafficking” in drugs is an aggravated felony, and today’s cases pose the question of what that means. The plain meaning of “trafficking” in drugs is engaging in commercial activity. But some courts have ignored this plain meaning and held that simple possession of drugs can count, and therefore can be an aggravated felony.

That is the situation of the defendants in today’s cases. Reymundo Toledo-Flores was convicted of possession of cocaine, and Jose Antonio Lopez was convicted of aiding and abetting possession of cocaine. The courts that heard their cases ruled that their convictions qualified as trafficking, and therefore as aggravated felonies. This legal exaggeration has serious consequences. Noncitizens convicted of aggravated felonies can more easily be deported and can be barred from becoming American citizens. They can also receive substantially longer prison sentences if they commit future crimes.

The legal climate is not particularly hospitable to immigrants right now, and Mr. Toledo-Flores and Mr. Lopez have the additional disadvantage of coming to court having been convicted of crimes. But their crimes were minor ones that cannot properly be described as aggravated felonies. As the American Bar Association notes in a friend-of-the-court brief, treating the two men as if they had committed worse crimes than they did “leads not only to individual injustices” but also harms “the integrity and fair and regular operation of the criminal justice system.”