

Supreme Court allows prosecution of medical marijuana

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WASHINGTON (CNN) -- The U.S. Supreme Court on Monday ruled doctors can be blocked from prescribing marijuana for patients suffering from pain caused by cancer or other serious illnesses.

In a 6-3 vote, the justices ruled the Bush administration can block the backyard cultivation of pot for personal use, because such use has broader social and financial implications.

"Congress' power to regulate purely activities that are part of an economic 'class of activities' that have a substantial effect on interstate commerce is firmly established," Justice John Paul Stevens wrote for the majority.

Justices Sandra Day O'Connor, William Rehnquist and Clarence Thomas dissented. The case took an unusually long time to be resolved, with oral arguments held in November.

The decision means that federal anti-drug laws trump state laws that allow the use of medical marijuana, said CNN senior legal analyst Jeffrey Toobin. Ten states have such laws.

"If medical marijuana advocates want to get their views successfully presented, they have to go to Congress; they can't go to the states, because it's really the federal government that's in charge here," Toobin said.

At issue was the power of federal government to override state laws on use of "patient pot."

The Controlled Substances Act prevents the cultivation and possession of marijuana, even by people who claim personal "medicinal" use. The government argues its overall anti-drug campaign would be undermined by even limited patient exceptions.

The Drug Enforcement Agency began raids in 2001 against patients using the drug and their caregivers in California, one of 11 states that legalized the use of marijuana for patients under a doctor's care. Among those arrested was Angel Raich, who has brain cancer, and Diane Monson, who grew cannabis in her garden to help alleviate chronic back pain.

A federal appeals court concluded use of medical marijuana was non-commercial, and therefore not subject to congressional oversight of "economic enterprise."

But lawyers for the U.S. Justice Department argued to the Supreme Court that homegrown marijuana represented interstate commerce, because the garden patch weed would affect "overall production" of the weed, much of it imported across American borders by well-financed, often violent drug gangs.

Lawyers for the patient countered with the claim that the marijuana was neither bought nor sold. After California's referendum passed in 1996, "cannabis clubs" sprung up across the state to provide marijuana to patients. They were eventually shut down by the state's attorney general.

The U.S. Supreme Court ruled in 2001 that anyone distributing medical marijuana could be prosecuted, despite claims their activity was a "medical activity."

The current case considered by the justices dealt with the broader issue of whether marijuana users could be subject to prosecution.

Along with California, nine states have passed laws permitting marijuana use by patients with a doctor's approval: Alaska, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Vermont and Washington. Arizona also has a similar law, but no formal program in place to administer prescription pot.

California's Compassionate Use Act permits patients with a doctor's approval to grow, smoke or acquire the drug for "medical needs."

Users include television host Montel Williams, who uses it to ease pain from multiple sclerosis.

Anti-drug activists say Monday's ruling could encourage abuse of drugs deemed by the government to be narcotics.

"It's a handful of people who want to see not just marijuana, but all drugs legalized," said Calvina Fay of the Drug Free America Foundation.

In its hard-line stance in opposition to medical marijuana, the federal government invoked a larger issue. "The trafficking of drugs finances the work of terror, sustaining terrorists," said President Bush in December 2001. Tough enforcement, the government told the justices, "is central to combating illegal drug possession."

Marijuana users, in their defense, argued, "Since September 11, 2001, Defendants [DEA] have terrorized more than 35 Californians because of medical cannabis." In that state, the issue has become a hot political issue this election year.

The case is *Gonzales v. Raich*, case no. 03-1454.

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