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Factory sweeps for illegal aliens OK'd

High court also reaffirms power of police to raid marijuana fields

Associated Press

WASHINGTON — The Supreme Court, in a dual victory for law-enforcement officials, Tuesday upheld broad government powers to search factories for illegal aliens and privately owned fields for marijuana.

The court ruled 7-2 in a Los Angeles case that the government may sweep through factories to find illegal aliens while immigration agents block the exits.

In a second case, the court strongly reaffirmed a 60-year-old legal doctrine that allows police officers to enter and search "open fields" without a court warrant.

By a 6-3 vote, the justices said police officers in Kentucky and Maine acted lawfully when they disregarded no-trespassing signs and entered private property to find marijuana patches.

"The government's intrusion upon the open field is not one of those unreasonable searches (pro-

hibited) by the text of the Fourth Amendment," Justice Lewis Powell wrote for the court.

Stating that the high court's 1924 decision in *Hester vs. the United States* was still good law, Powell said, "Open fields do not provide the setting for those intimate activities that the (Constitution) is intended to shelter from government interference or surveillance.

"There is no societal interest in protecting the privacy of those activities, such as the cultivation of crops that occur in open fields," Powell said.

He said courts do not have to consider the validity of such police searches on a case-by-case basis.

Please see **COURT/A6**

Civil-rights groups decry INS search ruling

By Donna Davis
The Register

SANTA ANA — Local civil-rights advocates lashed out Tuesday at a Supreme Court ruling that gives immigration officials the right to conduct surprise factory searches for illegal aliens.

Immigration officials said they were pleased about their "big advantage" in apprehending illegal aliens who they claim drain the economy and take jobs away

from U.S. citizens. Officials termed it "an important step in discouraging illegal entry particularly from Mexico."

Critics said they were disappointed with the high court's decision, which one termed "a serious setback" in protecting the civil rights of a minority population.

Others said the U.S. Immigration and Naturalization Service discriminates against "dark-skinned, foreign-looking" individuals during raids in Orange

and Los Angeles county workplaces.

"This goes beyond a labor issue to a civil-rights issue," said Robert Nava, spokesman for the Orange County Human Relations Commission. "In the course of these raids, we find American citizens who happen to be Hispanic are routinely stopped and subjected to extensive interrogation based solely on their appearance."

Please see **SEARCH/A6**

SEARCH: Surprise factory raids upheld

FROM A1

The ruling allows government officials to seek out the aliens in surprise searches of factories, while immigration agents block all exits.

Most critics of INS practices, including Santa Ana Police Chief Ray Davis, contend that the government's interest would be better served if efforts were concentrated at the border rather than 100 miles to the north. In Santa Ana, Hispanics make up about 44 percent of the population, according to census figures.

In its 7-2 decision, the court said the raids, authorized by the Carter administration and defended by the Reagan administration, do not violate privacy rights guaranteed by the Fourth Amendment.

INS officials heralded the decision as a "very good one" in recognizing that raids have been legally conducted. The Supreme Court's ruling overturned a 1982 ruling by the 9th U.S. Circuit Court of Appeals that the raids violated the rights of four legal workers interrogated at their Los Angeles work places in 1977.

During those raids, immigration agents — bearing search warrants or permission from factory owners to search the premises — walked through the plants questioning workers while other agents blocked the windows and doors.

"Now we will be able to wear a badge and ask people identifying questions as to their name and whether they are here legally or illegally," said Harold Ezell, INS Western regional commissioner.

"This ruling also will greatly enhance our ability to free and identify jobs that should be U.S. citizens' or lawful permanent residents' jobs," Ezell said, adding that the decision was an "important step in discouraging illegal entry particularly from Mexico."

The INS will continue to push for the power to impose strict penalties against employers who knowingly hire illegal aliens, he said. "We must take away the magnet that's drawing them here," Ezell said the 500,000 illegal immigrants who make their way into the state each year were "economic refugees."

According to INS reports, 4,461 illegal immigrants of Hispanic descent were deported or willingly left the seven-county Los Angeles district — which includes Orange County — in 1983. About 2,956 illegal aliens from other ethnic groups reportedly left the area during that same period.

"They're coming here for jobs. Pure and simple. We simply cannot employ all the unemployed people of the world," he said.

But some employers claim the INS raids frequently become a racial, rather than economic, battle.

A California garment-maker spokesman said Tuesday's ruling would cause serious disruption of daily business. "We also believe the way they (INS raids) are conducted violates the rights of our workers," said Bernard Brown, chairman of political activities for the Coalition of Apparel Industries in California.

To Alex Sytnyk, head of personnel for the B.P. John Co., a Santa Ana furniture plant subjected to three raids in the past five years, business grinds to a halt when government agents question most of his mainly Hispanic work force of 375 people.

"We have to shut everything down" due to the high-speed machinery which requires a constant vigil, he said.

Sytnyk said he makes every effort to determine an employee's legal status at the time of hiring. But he said it was difficult to differentiate between phony and real documents.

He said INS agents tend to question workers there "strictly by skin color."

For example, the switchboard operator at his plant, who is a legal immigrant from Wales, was never questioned although she was the first person agents approached with a search warrant, he said. Nor was Sytnyk, who said he was Canadian, ever asked about his legal status.

The Rev. Allan Deck, director of the Hispanic Ministry for the Diocese of Orange, said "the racial issue is a severe problem when it comes to the INS."

Raids are "always intimidating" to the Hispanic community at large, he said, "terrorizing a very significant percentage of our population."

The Supreme Court's decision will "only contribute to an atmosphere of fear and suspicion that has made the Hispanic people a kind of subculture in Southern California," he said.

In addition, Deck said, sweeping raids "seem to have no impact on holding back the flow of undocumented immigrants into this country."

Joining in the opposition was the American Jewish Committee.

Linda Wong, an attorney for the Los Angeles-based Mexican American Legal Defense and Education Fund, which opposed the indiscriminate raids, said she was "worried" about the effect of Tuesday's ruling.

"Their (INS) tactics of intimidation have not changed and will likely worsen," Wong said. "Agents still target dark-skinned, foreign-looking people. The problem has not gone away. We now need a different perspective on how to challenge their authority."

Ezell denied that INS agents discriminate against ethnic groups. "What's more discriminatory than an employer who pays below-minimum wage to an illegal worker?" he asked.

"It's simply not true," he said of the accusations. "I've been on a number (of raids) myself. We were discreet in how we approached people. We'll not be kicking doors in. We'll continue to conduct ourselves as professionally and responsibly as in the past."

COURT: Searches

FROM A1

Powell said that doctrine is alive and well.

The decision means marijuana seized from Ray Oliver's farm near Louisville, Ky., may be used when state authorities try him on drug-related charges.

The 6th U.S. Circuit Court of Appeals ruled that the 62-year-old retired farmer had no expectation of privacy in the open field even though he had posted no-trespassing signs and had surrounded the field with a fence and locked gate. The Supreme Court agreed.

The decision also means marijuana seized in a Hartland, Maine, wooded area owned by Richard Thornton may be used as evidence in Thornton's criminal trial.

The Maine Supreme Court had ruled that the marijuana could not be used as evidence because police officers were on Thornton's property when they spotted the illegal crop. The property was surrounded by no-trespassing signs.

Joining Powell's opinion were Chief Justice Warren Burger and Justices Harry Blackmun, William Rehnquist and Sandra Day O'Connor. Justice Byron White joined in the result but did not endorse all of Powell's language.

Justices Thurgood Marshall, William Brennan and John Paul Stevens dissented.

"It is hard to credit the court's assertion that Oliver's and Thornton's expectations of privacy were not of a sort that society is prepared to recognize as reasonable," Marshall wrote for the three.