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COURT ASKED TO PREVENT CRIMINAL ALIENS FROM POSTPONING DEPORTATION

(Immigration and Naturalization Service v. St. Cyr)

Yesterday the Washington Legal Foundation (WLF) filed a brief with the U.S. Supreme Court, asking the Court to overturn a federal court of appeals decision that would allow criminal aliens to postpone their deportation orders through multiple rounds of litigation.

This case centers on the fate of Enrico St. Cyr, a native of Haiti, who entered this country legally in 1986 but who, in 1996, pleaded guilty in Connecticut court to drug trafficking. Before the Immigration and Naturalization Service (INS) could begin deportation (now called "removal") proceedings against St. Cyr, Congress passed a new law that dramatically changed the rules governing the removal of aliens who commit crimes.

Enacted in 1996, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) aimed to remove barriers that previously allowed criminal aliens to remain in the country. It tried to achieve this by reducing the availability of discretionary relief from removal and by restricting the opportunities for judicial review. In particular, IIRIRA declared that resident aliens who commit an aggravated felony are categorically ineligible for discretionary relief and may not challenge the legality of a final removal order.

Nonetheless, St. Cyr sought a petition for habeas corpus in federal district court. Citing statutory provisions that IIRIRA expressly repealed, St. Cyr maintained that he was eligible for discretionary relief, despite the fact that his conviction for drug trafficking qualified as an aggravated felony under IIRIRA, thus leaving him categorically ineligible for such relief. The district court agreed with St. Cyr, and the U.S. Court of Appeals for the Second Circuit affirmed. The court of appeals held that IIRIRA did not preclude St. Cyr from seeking a petition for habeas corpus in the district court. In part the court read IIRIRA this way to avoid what it perceived to be a serious question of constitutional law. Specifically, the court of appeals worried aloud that reading IIRIRA to mean that district courts have no jurisdiction to grant a writ of habeas corpus to an alien whose removal has been ordered because of the commission of an aggravated felony might violate the Suspension Clause of the Constitution. The United States then sought and obtained review in the U.S. Supreme Court.

In its brief filed with the Supreme Court, WLF argued that the Second Circuit's reading of IIRIRA should be reversed for three reasons. First, WLF pointed out that the canon of constitutional doubt is misapplied when used to thwart the evident intent of Congress. It may be invoked only when a statute fairly admits more than one reading and when a constitutional issue may be avoided by selecting one interpretation rather than another without distorting the plain meaning of the statute. Second, WLF described how the language of IIRIRA unambiguously excludes the possibility of preserving habeas corpus jurisdiction in district courts to review the final removal orders of an alien like St. Cyr, who has committed an aggravated felony. Third, WLF argued that, if read according to its plain meaning, IIRIRA does not offend the Suspension Clause. That Clause was originally understood to impose a disability on Congress's power to suspend the Great Writ, not to support an inherent habeas corpus jurisdiction in federal courts. Furthermore, even if original understanding is not treated as dispositive in this case, the precise context of the question presented—a restriction on the habeas corpus jurisdiction of district courts in a narrow category of immigration cases—gives the Court additional reasons to reject the Second Circuit's invocation of constitutional doubt and, with it, the court's interpretation of IIRIRA.

"Congress has passed a law plainly depriving federal district courts of jurisdiction in cases like this," said Shawn Gunnarson, WLF's Senior Counsel for Litigation Affairs. "That law evidently expresses Congress's measured judgment that the nation is safer when the most dangerous category of foreigners, those convicted of aggravated felonies, are promptly removed from our shores. And we find nothing in the Constitution that prevents our country's elected representatives from making that choice."

The Washington Legal Foundation is a public interest law and policy center with supporters in all fifty states. It devotes a significant portion of its resources to defending and promoting the principles of free enterprise and individual rights.

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