

Name: _____

Read the following two articles about a Supreme Court case about whether the Federal Government has the power to regulate “medical” marijuana in California. Based on your understanding of Federalism from Chapter 4, Section 1 (pg. 88 to 95), write your opinion in the space that follows about: (1) whether you agree with the New York Times editorial (written before the Supreme Court made a decision) which says the women should win, or (2) whether you agree with the Supreme Court that the Federal Government has the power to pass laws regulating drugs such as marijuana.

New York Times

November 29, 2004

EDITORIAL

Preserving the Power of Congress

The Supreme Court is hearing arguments today in a case involving two important, but very different, legal issues: medical marijuana and federalism. Two California women have sued the federal government to stop it from prosecuting them for using marijuana for medical purposes, which they are permitted to do under California law. The court should uphold their right to use medical marijuana, but in a way that pays proper respect to Congress's power to make national laws.

This case arises out of an unusually dramatic face-off between federal and state power. In 2002, federal agents from the Drug Enforcement Administration showed up at the home of Diane Monson, who grew marijuana there and used it to treat a degenerative spine condition. In California, such use of marijuana has been legal since the voters passed Proposition 215 in 1996, the Compassionate Use Act, which allows seriously ill people to grow and use marijuana when a doctor has found it to be medically appropriate. The federal agents were met at Ms. Monson's home by sheriff's deputies, who found that her cultivation and use of the drug were legal under California law. After a three-hour standoff, the D.E.A. agents seized Ms. Monson's six cannabis plants and destroyed them.

Fearing that they would be deprived of medical marijuana in the future, Ms. Monson and another California woman, who has an inoperable brain tumor, sued the federal government seeking a declaration that the Controlled Substances Act, the federal law the D.E.A. agents were acting under, does not prevent them from using medical marijuana.

The central issue is whether Congress had the constitutional power to criminalize the women's activities. When it passed the Controlled Substances Act, Congress relied on the commerce clause of the Constitution, which authorizes it "to regulate commerce with foreign nations, and among the several states." In recent years, the Supreme Court has taken a narrow view of what that authorizes Congress to do. It has ruled, in 5-to-4 decisions, that Congress did not have the power to pass the Gun-Free School Zones Act or a key part of the Violence Against Women Act.

We remain troubled by these decisions and, more generally, by the court's narrow reading of Congress's power. But given the state of the law, the United States Court of Appeals for the Ninth Circuit was correct to hold that the federal government had no right to criminalize the California women's actions. The marijuana in this case was far removed from interstate commerce, since it was raised in California for use within the state and was not sold commercially. The Justice Department has argued that allowing Californians to use medical marijuana "seriously undermines Congress's comprehensive scheme for the regulation of dangerous drugs." But when an individual treats herself with marijuana, under the sanction of state law and with a doctor's guidance, the impact on trafficking in dangerous drugs is close to nonexistent.

Although the California women should win, it is important that they win on narrow, fact-specific grounds. Advocates of states' rights have latched onto this case and are urging the court to use it to radically rewrite its commerce clause rulings, reviving ancient precedents that took a more limited view of Congressional power. This is where the greatest danger lies in this case. If this sharply restricted view prevails, it could substantially diminish the federal government's ability to protect Americans from unsafe work conditions, pollution, discrimination and other harms.

Supreme Court allows prosecution of medical marijuana

June 07, 2005|By Bill Mears CNN Washington Bureau

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.