

UNITED STATES v ALFONSO LOPEZ, JR. 1995 WL 238424

Argued November 8, 1994

Decided April 26, 1995

In 1990, Congress passed the Gun-Free School Zones Act, forbidding "... any individual knowingly to possess a firearm at a place that [he] knows ... is a school zone." The term "school zone" was defined in the Act as "in, or on the grounds of, a public, parochial or private school" or "within a distance of 1,000 feet from the grounds of a public, parochial or private school."

On March 10, 1992, Alfonso Lopez, a 12th-grade student at Edison High School in San Antonio, Texas, arrived at school carrying a concealed .38 caliber handgun and five bullets. Acting upon an anonymous tip, school authorities confronted Lopez, who admitted that he was carrying the weapon. He was arrested and charged under a Texas law with firearm possession on a school premise. The next day, the state charges were dismissed after federal agents charged Lopez with the violation of the federal Gun-Free School Zones Act.

After being indicted by a federal grand jury, Lopez moved to have the indictment dismissed on the ground that it was "beyond the power of Congress to legislate control over public schools." The United States District Court denied the motion, and in a bench trial he was found guilty. He was sentenced to six months' imprisonment and two years' supervised release. Lopez appealed his conviction on the basis that the Act exceeded Congress' power to legislate under the Commerce Clause. The Fifth Circuit Court of Appeals agreed and reversed his conviction. The case was then appealed to the U. S. Supreme Court.

- ISSUES: Does a congressional law prohibiting weapons on or near school grounds violate the powers reserved to the states under the Tenth Amendment? Does the Commerce Clause authorize Congress to enact a statute that makes it a crime to possess a gun in, or near, a school?

*UNITED STATES v.
LOPEZ (1995) Decision*

In a ruling that could make it tougher for Congress to enact gun control measures, the Supreme Court struck down the 1990 law banning possession of a firearm in or near a school. Chief Justice Rehnquist, speaking for the five-to-four majority, indicated that possession of a gun on school grounds is in no way an economic activity that might have a substantial effect on interstate commerce. Rehnquist was joined by Justices O'Connor, Scalia, Kennedy, and Thomas and began the majority opinion by quoting James Madison from Federalist Papers No. 45:

"The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State Governments are numerous and indefinite. "

Rehnquist said that the school gun law had nothing to do with commerce and should be struck down to maintain the division between what is under federal authority and what is under state and local governments. He then referred to the 1824 Supreme Court case, *Gibbons v. Ogden*, in which the Court first defined Congress' commerce power. He indicated that Chief Justice Marshall in the *Gibbons* case acknowledged that limitations on the commerce power "are inherent in the very language of the Commerce Clause." Chief Justice Rehnquist continued:

The Court has never declared that "Congress may use a relatively trivial impact on commerce as an excuse for broad general regulation of state or private activities. " We conclude, consistent with a great weight of our case law, that the proper test requires an analysis of whether the regulated activity "substantially affects" interstate commerce....

We do not doubt that Congress has authority under the Commerce Clause to regulate numerous commercial activities that substantially affect interstate commerce and also affect the educational process. That authority, though broad, does not include the authority to regulate each and every aspect of local schools.

Respondent was a local student at a local school, there is no indication that he had recently moved in interstate commerce, and there is no requirement that his possession of the firearm have any concrete tie to interstate commerce.

In a concurring opinion, Justice Kennedy wrote:

While it is doubtful that any State, or indeed any reasonable person, would argue that it is wise policy to allow students to carry guns on school premises, considerable disagreement exists about how best to accomplish that goal.... If a state or municipality determines that harsh criminal

sanctions are necessary and wise to deter students from carrying guns on school premises, the reserved powers of the States are sufficient to enact those measures. Indeed, over 40 States already have criminal laws outlawing the possession of firearms on or near school grounds.

Justice Stevens wrote in his dissent:

Guns are both articles of commerce and articles that can be used to restrain commerce. Their possession is the consequence, either directly or indirectly, of commerce activity. In my judgment, Congress' power to regulate commerce in firearms includes the power to prohibit possession of guns at any location because of their potentially harmful use; it necessarily follows that Congress may also prohibit their possession in particular markets. The market for the possession of handguns by school-age children is, distressingly, substantial.

Justice Breyer wrote a separate dissenting opinion, in which he was joined by Justice Stevens, Souter, and Ginsburg:

... the question of degree (how much effect) requires an estimate of the "size" of the effect that no verbal formulation can capture with precision. I use the word "significant" because the word "substantial" implies a somewhat narrower power than recent precedent suggests.

... Could Congress rationally have found that "violent crime in school zones" through its effect on the "quality of education" significantly (or substantially) affect "interstate "or 'foreign commerce "? As long as one views the commerce connection, not as a "technical legal conception, " but as "a practical one, " the answer to this question must be yes.

... (R)eports, hearings, and other readily available literature make clear that the problem of guns in and around schools is widespread and extremely serious. These materials report, for example, that four percent of American high school students (and six percent of inner-city high school students) carry a gun to school at least occasionally, that 12 percent of urban high school students have had guns fired at them; that 20 percent of those students have been threatened with guns; and that, in any 6-month period, several hundred thousand schoolchildren are victims of violent crimes in or near their schools.... Based on reports such as these, Congress obviously could have thought that guns and learning are mutually exclusive. And, Congress could therefore have found a substantial educational problem -- teachers unable to teach, students unable to learn -- and concluded that guns near schools contribute substantially to the size and scope of that problem.

Having found that guns in school significantly undermine the quality of education in our Nation's classrooms, Congress could also have found, given the effect of education upon interstate and foreign commerce, that gun-related violence in and around schools is a commercial, as well as a human, problem. Education, although far more than a matter of economics, has long been inextricably intertwined with the Nation's economy.

In recent years the link between secondary education and business has strengthened becoming both more direct and more important.... Increasingly global competition also has made primary and secondary education economically more important.... Finally, there is evidence that, today more than ever, many firms base their location decisions upon the presence, or absence, of a workforce with a basic education.

Upholding this legislation would do no more than simply recognize that Congress had a "rational basis "for finding a significant connection between guns in or near schools and (through their effect on education) the interstate and foreign commerce they threaten.

FOLLOW-UP: Alfonso Lopez was described as a "basic normal kid in high school" who had never been in trouble before this incident. He told authorities that he had been carrying the gun for another person who was planning on using in a gang war. At the time of the announcement of the Supreme Court decision, Lopez was twenty-one years old and working in San Antonio. In the San Antonio Independent School, the number of cases in which a student was caught on school grounds with a gun decreased by half between 1991 and 1995.