



## AMERICAN IMMIGRATION LAW FOUNDATION

---

### **AILF Lauds Today's Supreme Court Decision**

#### *Supreme Court Overrules Government Tactics to Criminalize Immigrant Workers*

**May 4, 2009**

**Washington, DC** - AILF's Legal Action Center applauds a unanimous decision today of the U.S. Supreme Court, that rejects the government's efforts to overreach in prosecutions of immigrant workers. The Court held that to convict a defendant of aggravated identity theft, which carries a mandatory minimum sentence of two years in prison, the government must establish that the person knew the identification belonged to another person.

"The Court sent a clear message that the government must not misuse a criminal statute intended to combat actual identity theft in order to drop a hammer on unauthorized workers," said Nadine Wettstein, Director of the Legal Action Center.

In the case before the Court, a worker, Ignacio Flores-Figueroa, had given his employer counterfeit Social Security and alien registration cards in order to continue working. The government charged Flores with misusing immigration documents, but also elevated the charges by including a charge of aggravated identity theft. The government argued that to convict on that charge, it did not have to prove that Flores knew the number actually belonged to another person.

The Court disagreed. It rejected the government's claim that it would be too hard to prove a defendant knew the identification belonged to someone else. Significantly, the Court said that when the government properly charges defendants with this crime, the government should have no difficulty proving "knowledge:"

*...[I]n the classic case of identity theft, intent is generally not difficult to prove. For example, where a defendant has used another person's identification information to get access to that person's bank account, the Government can prove knowledge with little difficulty. The same is true when the defendant has gone through someone else's trash to find discarded credit card and bank statements..."*

The government charged more than 300 workers in Postville, Iowa in 2008 with violating this very statute. Because of the threat of serving two years in prison, almost all of the Postville defendants pled guilty to lesser charges in expedited hearings that led to widespread condemnation.

Mr. Flores-Figueroa was represented at the Supreme Court by Kevin Russell of Howe and Russell of Bethesda, Maryland. Amicus Curiae ("friend of the court") briefs were filed by several organizations, including Washington Square Legal Services, New York, on behalf of approximately 20 organizations.

###

For further analysis of the decision, contact Nadine Wettstein, Director, American Immigration Law Foundation, Legal Action Center, phone 202-236-0958 or email [nwettstein@ailf.org](mailto:nwettstein@ailf.org).