

Supreme Court allows prosecution of medical marijuana

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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.