

ALBUQUERQUE CRIMINAL LAWYER BLOG

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Deporting Immigrants on Marijuana Possession Strains Public Resources

Arguments were heard last week by the Supreme Court in *Carachuri-Rosendo v. Holder*. The case addresses the immigration consequences of removal and deportation of immigrants from the United States for minor possession of marijuana. I set forth a summary of the case in a prior post. The last post did not address the public policy implications of the case. There are many that will be felt here in New Mexico.

News reports over the last several weeks have included California releasing thousands of prisoners due to budget issues. The State of New Mexico is considering permanently cutting over 1000 employment positions in the State, many of which are corrections and law enforcement. The New Mexico State Police have cut back on officers. Other cities and towns, including Albuquerque, are cutting law enforcement positions and/or salaries. The courts in New Mexico, including the Second Judicial District, are cutting hours and staff due to budget issues. Prosecutor budgets are being cut with prosecutors taking pay cuts. Think of what a continuation of the policy of deportation of immigrants on minor possession of marijuana has on prosecutor's offices.

Immigrants facing these charges have no plea options. Prosecutors are left with one few options, dismissing the case or going to trial. In many cases, these are only options if there were no other charges in the complaint. There is simply no lesser included offense that would allow plea. Criminal defense attorneys cannot advise their clients to take a plea involving any hint of drug possession. They cannot even allow a plea that would result in a dismissal if the plea involves an admission of marijuana possession. The admission alone, despite the later dismissal, is a deportable act.

Thus, the policy forces defendants to go to trial on otherwise trivial charges. Trials are a huge burden on the courts and prosecutors who are already under severe budgetary strains. Just today, the Albuquerque Journal reported that Albuquerque Public Schools face a \$43 million budget deficit forcing the layoff of 664 APS employees. How should we as a society spend our tax dollars? For teachers or for prosecuting and deporting otherwise law-abiding immigrants on minor possession of marijuana?

Morality, humanity, compassion carry little weight in immigration debates. Money is always persuasive, and though money cannot buy happiness, it might buy change in a cruel and irrational immigration enforcement policy.

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