

## **United States v. Lopez (1995)**

**Argued:** November 8, 1994

**Decided:** April 26, 1995

### **Background**

The U.S. Constitution sets up a system of government in which the federal government and the states share power. The powers of the federal government are limited and are described in the Constitution. Other powers, not delegated to the federal government, are reserved for the states. Article 1, Section 8, of the Constitution lists many of Congress' powers, including the power to create post offices, raise an army, coin money, and declare war. One of Congress' broadest powers is the power to regulate commerce among the states, and many of the laws Congress passes depend on this power. In this case, however, it is argued that Congress passed a law that exceeded this constitutional power.

### **Facts**

In 1990, Congress passed the Gun-Free School Zones Act (GFSZA). In an effort to reduce gun violence in and around schools, the GFSZA prohibited people from knowingly carrying a gun in a school zone. A school zone was defined as any area within 1,000 feet of a school. A 12<sup>th</sup>-grade student, Alfonso Lopez Jr., was convicted of possessing a gun at a Texas school. Lopez appealed his conviction, arguing that Congress never had the authority to pass the GFSZA in the first place. The U.S. Court of Appeals for the Fifth Circuit agreed with Lopez and reversed his conviction. The U.S. government asked the Supreme Court to hear the case, and the Court agreed to do so.

### **Issue**

Did Congress have the power to pass the Gun-Free School Zones Act?

### **Constitutional Clauses and Supreme Court Precedents**

- **Article 1, Section 8, Clause 3 (The Commerce Clause) of the U.S. Constitution**

“The Congress shall have the power ... to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes...”

- **Article 1, Section 8, Clause 18 (The Necessary and Proper Clause) of the U.S. Constitution**

“The Congress shall have the power ... to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”

- *Wickard v. Filburn* (1942)

In an effort to increase wheat prices during the Great Depression, Congress passed a law limiting the amount of wheat that some farmers could grow. One farmer argued that Congress could not use the Commerce Clause to stop him from growing wheat for personal consumption because that wheat would not be sold and, therefore, would not be part of interstate commerce. The Supreme Court ruled that Congress could regulate a farmer's personal wheat crop because the production of wheat is a commercial activity that has interstate consequences. The Court reasoned that Congress may regulate *intrastate* activities that, if taken all together, would substantially affect interstate commerce. If many farmers decided to grow their own wheat and not buy it on the market, they would substantially affect interstate commerce.

- *Heart of Atlanta Motel v. United States* (1964)

The Civil Rights Act of 1964 made racial discrimination in public places, including hotels, illegal. An Atlanta hotel that refused to serve African American customers argued that Congress did not have the power to pass the Act under the Commerce Clause. The Supreme Court ruled against the hotel, concluding that “commerce” includes travel from state to state and that racial discrimination in hotels can affect travel from state to state. Congress can, therefore, prohibit discrimination in hotels because, in the aggregate, it affects interstate commerce.

### **Arguments for the United States (petitioner)**

- Congress had the authority to pass the GFSZA under the Commerce Clause. The Supreme Court ruled in *Wickard* and *Heart of Atlanta Motel* that Congress can regulate things that are not by themselves interstate commerce if, when accumulated together, they affect interstate commerce.
- Although possession of a gun in a school zone is not a direct form of interstate commerce, it can be classified as commerce because the costs associated with violent crime are substantial and affect many people across the country.
- The presence of guns near schools also negatively affects students' ability to learn, which will impede their future success and thus affect the economy of the nation.
- Insurance costs for activities related to gun violence are high and gun violence at schools interferes with the willingness of people to travel to some parts of the country. Both of these activities, insurance and travel, are forms of commerce.
- The GFSZA does not encroach on state authority, as most states had their own laws prohibiting possession of guns on school property. Federal regulation in this case is concurrent with state regulation and does not displace it.

**Arguments for Lopez (respondent)**

- The GFSZA is not related to interstate commerce. The Constitution says that Congress can only pass certain types of laws, including laws that regulate “interstate commerce.” Commerce means commercial activities, and this law is not related to any commercial activities.
- The GFSZA is not like the law at issue in *Wickard*, which was about buying and selling crops, nor is it like the laws in *Heart of Atlanta Motel*, which were about customers paying for hotel rooms. Those are both economic activities.
- Mere possession of a gun at or near a school is not a form of commerce and does not involve more than one state.
- If mere possession of an object were classified as commerce, then anything could be classified as commerce. This would give Congress virtually unlimited powers; there would be no limits to the reach of the national government in a federal system.
- The Constitution limited Congress’ power to make laws for a reason. Some things are best left to the states. If Congress could call possession of a gun “interstate commerce,” then Congress would be allowed to regulate anything, and the states will have less authority to set their own laws.
- Different communities have different needs and standards. It should be up to states to decide whether people may carry guns near schools.

**Decision**

The Supreme Court ruled in favor of Lopez, 5-4. Chief Justice Rehnquist wrote the majority opinion for the Court and was joined by Justices O’Connor, Kennedy, Scalia, and Thomas. Justices O’Connor and Thomas filed separate concurring opinions. Justices Breyer, Ginsburg, Stevens, and Souter dissented.

The Supreme Court ruled that the law exceeded Congress’ authority under the Commerce Clause because carrying a gun in a school zone is not an *economic* activity. It said that Congress may regulate only:

- Channels of interstate commerce, including highways, waterways, and air traffic.
- People, machines, and things moving in, or used in carrying out, interstate commerce.
- Economic activities that have a substantial effect on interstate commerce.

The Court rejected the government’s argument that merely because crime negatively affected education, Congress could conclude that crime in schools affects commerce in a substantial way. Finally, the opinion stated that the Constitution created a national government with only limited, delegated powers. To claim that any kind of activity is commerce means that the power of Congress would be unlimited, which directly contradicts the principle of limited government and explicit

powers. As the Court explained, “Thus, if we were to accept the Government’s arguments, we are hard pressed to posit any activity by an individual that Congress is without power to regulate.”

### **Dissent**

Justice Breyer argued that the Commerce Clause includes the right to regulate local activity so long as the activity significantly affects interstate commerce. In addition, the Court must consider the cumulative effect of regulations, not just one instance. Finally, he argued, the Court’s role is not to determine if an activity like possession of a gun was commerce but instead if Congress had a “rational basis” for doing so.

Justice Stevens filed a separate dissent, arguing that the national interest in safeguarding the education system would benefit the overall economy, which provided sufficient authority under the Commerce Clause to protect against gun possession near schools.

Justice Souter’s separate dissent emphasized his view that the courts should defer to Congress’ informed judgment about the potential economic effects of activity that Congress seeks to regulate, so long as there is a “rational basis” for the judgment that Congress has made.

### **Impact**

Following the Court’s decision, Congress revised the GFSZA in June 1995. These changes require that when the government prosecutes someone under the GFSZA, it must prove that at least one of the guns involved in the crime moved in or affected interstate commerce. Since the GFSZA was rewritten, courts across the country have upheld it.

*United States v. Lopez* is important because it was the first time since 1937 that the Court held that Congress surpassed its powers under the Commerce Clause. *Lopez* is considered to be the beginning of a new phase of federalism that strengthened the role of state and local governments in lawmaking sometimes called the “Devolution Revolution.”