

United States v. Lopez,

514 U.S. 549 (1995)

Condensed Case



Source: Doctorow, Cory, Drug Free Gun Free School Zone Sign, Canal Street, New Orleans, Louisiana, USA. Wikicommons. January 2, 2024.

The Big Picture

The Constitution does not grant Congress any general power to regulate students or schools.

Ruling

Congress lacks the power under the Commerce Clause to criminalize all gun possession at schools because gun possession does not involve the regulation of an item of interstate commerce, a channel of commerce, or economic activity that substantially affects interstate commerce.

Constitutional Text

The Commerce Clause, in part, reads: *The Congress shall have power to regulate Commerce with foreign Nations, and among*

OPINION OF THE COURT

[In the Gun-Free School Zones Act of 1990, Congress made it a federal offense] “for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.” The Act neither regulates a commercial activity nor contains a requirement that the possession be connected in any way to interstate commerce.

[A high school student] arrived at Edison High School in San Antonio, Texas, carrying a concealed handgun and five bullets. Acting upon an anonymous tip, school authorities confronted respondent. He was arrested and charged under Texas law. The next day, the state charges were dismissed after federal agents charged [the student] with violating the Gun-Free School Zones Act. [He was found guilty and sentenced to six months' in prison. He appealed] his conviction based on his claim that [the Act] exceeded Congress' power to legislate under the Commerce Clause.

The Constitution creates a Federal Government of enumerated powers [that] “are few and defined. Those which are to remain in the State governments are numerous and indefinite.” This constitutionally mandated division of authority “was adopted by the Framers to ensure protection of our fundamental liberties.” “Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front.”

The Constitution delegates to Congress the power “[t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”

[The Court has] identified three broad categories of activity that Congress may regulate under its commerce power. First, Congress



*the several States, and with the
Indian Tribes.*

Dissenting Opinion

The welfare of our future
“Commerce with foreign Nations,
and among the several States” is
vitaly dependent on the
character of the education of our
children. Congress has ample
power to prohibit the possession
of firearms in or near schools—
just as it may protect the school
environment from harms posed
by controlled substances such as
asbestos or alcohol.

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 commercial 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 substantial. Whether or not the
national interest in eliminating
that market would have justified
federal legislation in 1789, it
surely does today.

may regulate the use of the channels of interstate commerce. Second, Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities. Finally, Congress' commerce authority includes the power to regulate those activities having a substantial relation to interstate commerce, [and] those activities that substantially affect interstate commerce.

We now turn to consider the power of Congress, in the light of this framework, to enact [the Gun-Free Schools Zone Act]. The first two categories of authority may be quickly disposed of: [the Act] is not a regulation of the use of the channels of interstate commerce, nor is it an attempt to prohibit the interstate transportation of a commodity through the channels of commerce; nor can [the Act] be justified as a regulation by which Congress has sought to protect an instrumentality of interstate commerce or a thing in interstate commerce. Thus, if [the Act] is to be sustained, it must be under the third category as a regulation of an activity that substantially affects interstate commerce.

The [federal] Government argues that possession of a firearm in a school zone may result in violent crime and that violent crime can be expected to affect the functioning of the national economy in two ways. First, the costs of violent crime are substantial, and, through the mechanism of insurance, those costs are spread throughout the population. Second, violent crime reduces the willingness of individuals to travel to areas within the country that are perceived to be unsafe. The Government also argues that the presence of guns in schools poses a substantial threat to the educational process by threatening the learning environment. A handicapped educational process, in turn, will result in a less productive citizenry. That, in turn, would have an adverse effect on the Nation's economic well-being. As a result, the Government argues that Congress could rationally have concluded that [the Act] substantially affects interstate commerce.

Under the theories that the Government presents, it is difficult to perceive any limitation on federal power, even in areas such as criminal law enforcement or education where States historically have been sovereign. 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.



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The possession of a gun in a local school zone is in no sense an economic activity that might, through repetition elsewhere, substantially affect any sort of interstate commerce. [The student] 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.

To uphold the Government's contentions here, we would have to pile inference upon inference in a manner that would bid fair to convert congressional authority under the Commerce Clause to a general police power of the sort retained by the States. This we are unwilling to do.

