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SUPREME COURT, U.S.  
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In the

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# Supreme Court of the United States

CONRADO ALMEIDA-SANCHEZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

No. 71-6278

Washington, D. C.  
March 19, 1973

Pages 1 thru 6

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CONRADO ALMEIDA-SANCHEZ, :  
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Petitioner, :  
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v. : No. 71-6278  
:   
UNITED STATES OF AMERICA, :  
:   
Respondent. :  
:   
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Washington, D. C.,

Monday, March 19, 1973.

The above-entitled matter came on for argument at  
1:30 o'clock, p.m.

BEFORE:

WARREN E. BURGER, Chief Justice of the United States  
WILLIAM O DOUGLAS, Associate Justice  
WILLIAM J. BRENNAN, JR., Associate Justice  
POTTER STEWART, Associate Justice  
BYRON R. WHITE, Associate Justice  
THURGOOD MARSHALL, Associate Justice  
HARRY A. BLACKMUN, Associate Justice  
LEWIS F. POWELL, JR., Associate Justice  
WILLIAM H. REHNQUIST, Associate Justice

APPEARANCES:

JAMES A. CHANOUX, ESQ., Fifth Avenue Financial  
Centre, 2550 Fifth Avenue, Suite 809, San Diego,  
California 92103; for the Petitioner.

PHILIP A. LACOVARA, ESQ., Deputy Solicitor General,  
Department of Justice, Washington, D. C. 20530;  
for the Respondent.

P R O C E E D I N G S

MR. CHIEF JUSTICE BURGER: We will hear arguments in Sanchez against the United States, No. 71-6278.

Mr. Chanoux, you may proceed whenever you're ready.

ORAL ARGUMENT OF JAMES A. CHANOUX, ESQ.,

ON BEHALF OF THE PETITIONER

MR. CHANOUX: Mr. Chief Justice, and may the Court please:

The question involved in this case revolves around whether petitioner's constitutional rights under the Fourth Amendment were violated in reference to a search and seizure of some marihuana which was found in a car driven by the petitioner.

It is the contention of petitioner that these rights were violated. The government contends that the search was reasonable under the Fourth Amendment, in that it was done by officers of the Border Patrol of the Immigration and Naturalization Service; and that the search of petitioner's car was for aliens.

The Immigration and Naturalization Act has a section authorizing warrantless searches of vehicles for aliens.

QUESTION: What would be your position if he had found an illegal alien under the back seat?

MR. CHANOUX: I feel that the issue would be the same, Your Honor. I do not feel that this would be constitutional

in --

QUESTION: Well, I thought you were making some distinction there.

MR. CHANOUX: I'm sorry, Your Honor.

No, I do not feel that there is a distinction as to whether they were searching for contraband or searching for an alien. It is petitioner's contention that, at the least, the Court should set guidelines or bring the searches for illegal aliens, or the searches of vehicles for illegal aliens, in line with the Customs searches of vehicles for contraband.

Petitioner does not feel that the Customs Services' hands have been tied by the safeguards implemented by the courts in order to give judicial sanction to certain facts.

Petitioner does not feel that in this particular set of facts, and this case was, or this motion was decided on a stipulated set of facts; it is not felt that it would be necessary to find that probable cause, per se, existed to search the car for an illegal alien, but, rather, that in a search under cases similar to Alexander and Weil, if the Court had reasonable suspicion, reasonable certainty that the car being searched did have an illegal alien, then it would be possible for the search to be justified under the statute.

QUESTION: Mr. Chanoux, to sustain that position of yours, we would have to hold the statute unconstitutional,

wouldn't we?

MR. CHAUX: That is my -- my contention, Your Honor, yes. It would be possible to hold the regulation in question unconstitutional. I feel that would be begging the question. We would left with a standard that 100 miles might not be reasonable, but the courts and officers would be left with, again, the statute or the subsection, stating that within a reasonable distance of the border. I do not feel that 100 miles is any religious, you know, reason for stating that 100 miles should be the safeguard; 75, 50; the Attorney General could have possibly stated three miles or three minutes. Possibly some safeguard is necessary.

But I do not feel that there is any magic involved in the hundred-mile limit set by --

QUESTION: What is the constitutional difference between three miles and 100 miles, in your view? You now indicate that three miles might be reasonable.

MR. CHAUX: No. I again, Your Honor, do not feel that there is any, you know, greater constitutional safeguards involved in a three-mile limit as opposed to 100-mile limit.

QUESTION: Then you wouldn't allow any distance away from the border?

MR. CHAUX: Possibly certain distances might be determined to be reasonable.

QUESTION: Well, fifty yards?



MR. CHANOUX: I would hate to see the situation where somebody could cross "an international boundary line" and then thumb his nose at the -- [coughing] excuse me, if the Court please -- thumb his nose at the border officers. And sort of show them that he had some illegal contraband, or have recently smuggled some.

QUESTION: Well, how about a nonstop airplane flight from Mexico City to Chicago? Certainly a search for contraband or for aliens to take place in Chicago, could it not?

MR. CHIEF JUSTICE BURGER: Counsel seems to be ill. Would you help him, officers?

Just let counsel sit down, and we'll -- just relax --

MR. CHANOUX: Thank you, Your Honor.

MR. CHIEF JUSTICE BURGER: Perhaps you should call Mrs. McGuire up. We'll just --

MR. JUSTICE STEWART: That's his wife. Let his wife help him.

MR. CHIEF JUSTICE BURGER: Counsel, I think what we'll do is to take a five or ten-minute recess until the nurse can arrive here.

[Whereupon, at 1:37 o'clock, p.m., a recess was taken for the purpose of assisting counsel; case was continued to a later date.]