

## SCOTUS Opinion: Court Narrows Eligibility of Lawful Permanent Immigrants to Avoid Removal

29 Apr 2020

Andre Barton was a green-card holder who was convicted of several crimes, including a firearms offense and certain drug offenses. The government decided that it wanted to remove Barton based on those convictions. Barton applied for cancellation of removal, which has certain strict requirements including an initial seven years of continuous residence. The residency requirement would be cancelled, however, if Barton committed certain offenses listed under statute 8 U.S.C. sec. 1182(a)(2), including aggravated assault, during those initial seven years. The immigration judge found that Barton had been convicted of aggravated assault 6.5 years after his admission to the United States, and thus his petition was denied. Barton argued that the offense that precluded cancellation of his removal had to also be one of the offenses to prompt his removal in the first place.

The Eleventh Circuit upheld removal. The Court, resolving a split among the circuits, affirmed the removal in a 5-4 decision by Justice Kavanaugh. The majority held that the statute was akin to a recidivist sentencing statute, making prior crimes relevant to eligibility for cancellation of removal, and that the text of the statute was “straightforward” in separating consideration of the removal offense from the prior crimes. Justice Sotomayor, joined by Justices Ginsburg, Breyer, and Kagan, dissented, arguing that the law distinguishes between what makes an immigrant “inadmissible,” versus “deportable,” and that the majority’s analysis erroneously permits consideration of Barton’s inadmissibility (which is moot because he has already been admitted) to support his deportability, which the dissent argues has not been proven.

A link to the opinion in *Barton v. Barr* is here: [https://www.supremecourt.gov/opinions/19pdf/18-725\\_f2bh.pdf](https://www.supremecourt.gov/opinions/19pdf/18-725_f2bh.pdf)

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