



## ***What the Supreme Court Did and Did Not Say***

On September 8, 2025, the Supreme Court granted a stay pending appeal in *Noem v. Vasquez Perdomo*. In a 6–3 decision, the Court lifted an injunction, allowing immigration enforcement practices that had been widely used in the Los Angeles region—which includes the counties of Los Angeles, Ventura, Santa Barbara, San Luis Obispo, Orange, Riverside, and San Bernardino—to resume while the appeal proceeds. However, there is *no majority opinion*. It is therefore unknown what grounds the majority relied on. The only guidance comes from Justice Kavanaugh’s concurrence. Although this opinion represents his views exclusively, this advisory analyzes it in depth, given the absence of any other judicial reasoning.

### **What Kavanaugh Opinion Permits**

- **Limited Stops:** officers may briefly question individuals about immigration status *only* if they have **reasonable suspicion** the person may be unlawfully present
- **Reasonable Suspicion:** must be based on **specific articulable facts**
- **Apparent Ethnicity:** **not permissible by itself** to create reasonable suspicion
- **Totality of Circumstances:** reasonable suspicion is based on **multiple factors**—**ethnic appearance relevant only in combination** with other factors that are not just proxies for ethnicity or ethnic appearance
- **Factors Cited:** Justice Kavanaugh offered no evidence or citation for these factors; they are noted here to make clear the limits of his rationale
  - High concentration of undocumented immigrants in the Los Angeles region: estimated to be about 10% of total population of 20 million—or about 2 million
  - Undocumented immigrants commonly gather to seek daily work
  - Jobs that attract undocumented workers: day labor, landscaping, agriculture, and construction
  - Many undocumented immigrants in Los Angeles don’t speak “much English”
- **Dangerous Consequences:**
  - Kavanaugh’s reasoning **opens the door to profiling** of Latinos—but **limited** to day laborer pickup sites or workers in landscaping, construction, and agriculture

## What Kavanaugh Opinion Does *Not* Permit

- **No Stops Based Solely on Apparent Ethnicity**
- **No Indiscriminate Stops Outside LA Region:** no other region has as high a concentration of undocumented immigrants
- **No Indiscriminate Stops Inside LA Region:** ICE may *not* resume indiscriminate stops **other than at places or of people working jobs identified**—this **does not include** places where Latinos may gather or happen to be present, such as a music concert featuring a Latino artist, a neighborhood Target or Walmart, or a Latino-themed event (for example, a Día de los Muertos parade or a celebration of El Grito), where there is no factor indicating a nexus to undocumented immigrants
  - **This does not mean that ICE won't stop or arrest you at one of these places, but that Justice Kavanaugh's opinion would not justify such enforcement activity, and therefore it could be potentially unlawful even under Kavanaugh's reasoning**
- **No Excessive Force:** during stops or detentions
- **Arrests:** officers must meet a **higher standard of “probable cause”**—circumstances or facts that would lead a reasonable person to believe an individual is unlawfully present

## Bottom Line

Justice Kavanaugh's opinion allows **brief stops** in specific contexts (day laborer pick-up sites, particular jobs), but it **does not authorize widespread or indiscriminate enforcement**

If you are **stopped by someone purporting to be a federal officer**, you should:

- Demand to see **identification** (a photo ID or badge)
- Ask if you are **free to go**
  - If the officer says yes, **calmly walk away**
  - If the officer says no, ask **why you were stopped**
- Remember: you have **the right to remain silent**, so you do not have to answer questions about your immigration status, birthplace, or how you entered the country
  - You can say: “I am exercising my right to remain silent.”
- Remember: you have **the right to speak to a lawyer**, but not the right to have one appointed
  - You can say: “I want to speak to a lawyer before answering any questions.”