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Bond v. USA
Brief of Amici Curiae Center for Constitutional Jurisprudence and The CATO Institute In Support of Petitioner

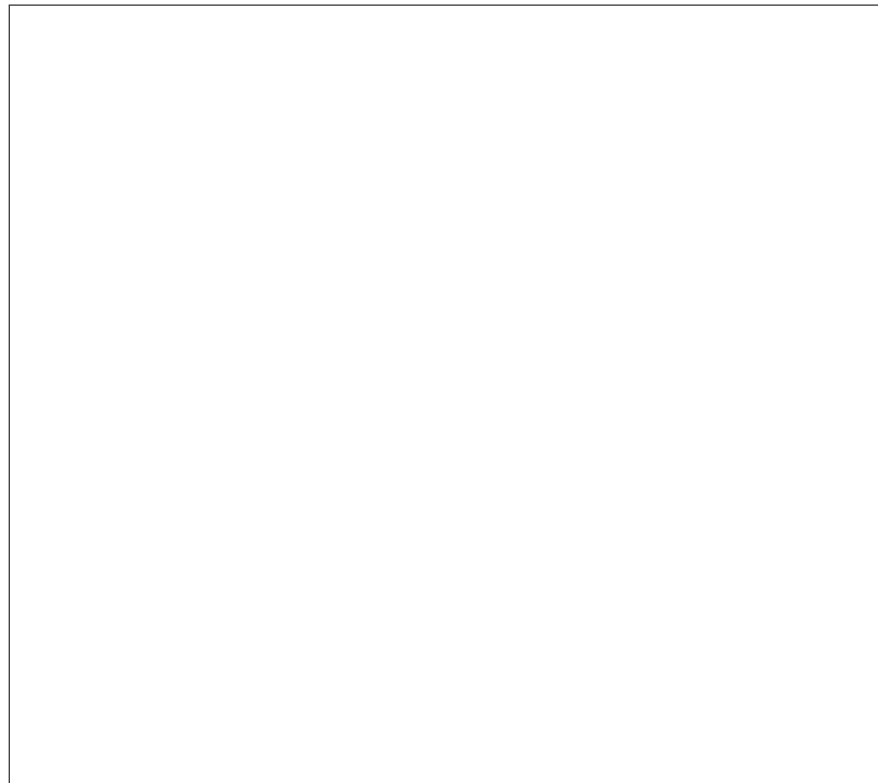
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SUMMARY: Carol Anne Bond learned that her best friend was having an affair with her husband, so she spread toxic chemicals on the woman's car and mailbox. Postal inspectors discovered this plot after they caught Bond on film stealing from the woman's mailbox. Rather than leave this caper to local law enforcement authorities to resolve, however, a federal prosecutor charged Bond with violating a statute that implements U.S. treaty obligations under the 1993 Chemical Weapons Convention. Bond pled guilty and was sentenced but now appeals her conviction on the ground that the statute at issue violates the Tenth Amendment — in that her offense was local in nature and not properly subject to federal prosecution. The Third Circuit declined to reach the constitutional question, holding that Bond did not have standing to raise a Tenth Amendment challenge and that, following Supreme Court precedent, a state actor must be a party to the suit in order to challenge the federal government for impinging on state sovereignty. Bond now seeks Supreme Court review on the ground that the statute, as applied to her, is beyond the federal government's enumerated powers. Cato joined the Center for Constitutional Jurisprudence in filing a brief supporting Bond's request. We argue not only that a defendant clearly has standing to challenge the constitutionality of the statute under which she was convicted, but that lower courts' assumption that both the power to make treaties and Congress's power to make laws executing those treaties are unconstrained by the Constitution. This assumption is premised on a perfunctory acceptance of an overly broad interpretation of Missouri v. Holland, 252 U.S. 416 (1920). That reading of Missouri v. Holland, however, is contrary to precedent, has been undermined by subsequent Court decisions, and if allowed to stand, will seriously undermine the notion that the federal government is one of only limited, enumerated powers.

See brief below for more information.

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