



Court: Chem weapons treaty can't trap jilted wife

An affair, a love child, an act of revenge, government surveillance -- all wrapped up in a chemical weapons treaty.

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WASHINGTON — The Supreme Court ruled Monday that the federal government had no business using an international chemical weapons treaty to prosecute a jilted wife seeking revenge on her husband's lover.

In an opinion dripping with sarcasm, the justices belittled the Justice Department's contention that Carol Anne Bond's "two-bit local assault" — a clumsy use of a chemical compound — could have anything in common with international terrorism.

Despite the sanctity of treaties agreed upon with foreign nations, the court said, they cannot always supplant police powers. The justices noted that Bond's attacks on a woman impregnated by her husband resulted in nothing more serious than a burned thumb treated with water — not the sort of injury treaties are intended to address.

Allowing Bond to be prosecuted under a treaty aimed at compounds such as ricin, sarin and mustard gas, Chief Justice John Roberts ruled for a unanimous court, could elevate dish detergent, stain remover and vinegar to chemical weapons status.

The case of *Bond v. United States* involved a lurid affair, an act of vengeance, weapons in the same category as those favored by tyrants and terrorists and video surveillance by an ever-vigilant government — all in a peaceful Philadelphia suburb. It took the justices nearly seven months to release their ruling, even though they all agreed on the outcome.

"The ordinary meaning of the term 'chemical weapon' does not apply to Bond," Roberts said.

While the justices all agreed on the result, the three most conservative among them -- Antonin Scalia, Clarence Thomas and Samuel Alito -- said they would have gone further and ruled that

the entire law used to prosecute Bond was unconstitutional. That reasoning, if it had received five votes, would have reduced Congress' power to enforce treaties.

By parsing the types of criminal conduct that can and cannot be prosecuted under the law implementing the treaty, Scalia said, a statute "which before was merely broad, is now broad and unintelligible."

In that sense, the decision was a disappointment to conservative groups that had been rooting for the court to overturn its 94-year-old precedent in *Missouri v. Holland*, which cleared the way for Congress to use federal treaties to supersede state's authority.

"In deciding the case so narrowly ... the court's majority abdicated its duty to check the other branches of government," said Ilya Shapiro of the libertarian Cato Institute. He criticized Roberts, whose decision in 2012 upheld President Obama's health care law, for going "out of his way to avoid hard calls whenever possible."

After discovering that her husband was the father of her best friend's child, Bond, 42, repeatedly spread a combination of potassium dichromate purchased from Amazon.com and 10-chloro-10-H-phenoxarsine taken from her employer on Myrlinda Haynes' car door, mailbox and doorknob.

After sustaining a minor burn on her thumb, Haynes called police, who advised her to take her car to the car wash. When the same compound appeared on her mailbox, she called the post office, putting the case before federal authorities. They installed surveillance cameras and caught Bond in the act, leading to her arrest, conviction and six-year prison term.

Federal district and appeals courts refused to let her off the hook. The Supreme Court, however, took a different view, which was apparent during oral arguments in November.

Several justices wondered whether Congress' implementation of the Chemical Weapons Convention of 1997 was intended to encompass crimes that Bond's attorney, former U.S. solicitor general Paul Clement, called "garden-variety assaults."

In defending their prosecution, federal officials cited the 1920 Supreme Court ruling that allowed a treaty with Canada on the treatment of migratory birds to overcome state jurisdiction.

Solicitor General Donald Verrilli had a hard time convincing the justices when the case was heard. "This is serious business," he implored them, warning that any diminution of the federal government's treaty power could harm U.S. interests on issues ranging from chemical weapons to nuclear non-proliferation.

"There needs to be a comprehensive ban," Verrilli said. "You can't be drawing these kinds of lines."

"Judges are here to draw lines," said Justice Stephen Breyer, a liberal justice clearly bothered by the government's case. "It's better to draw a few lines."