



Written by [Alex Newman](#) on March 22, 2016

Supreme Court Stops Oklahoma Suit Against Colorado Sovereignty

In what supporters are calling a victory for states' rights, the Constitution, and federalism, the Supreme Court killed a [controversial lawsuit](#) against Colorado voters' decision to end marijuana prohibition. The suit, brought by officials from Oklahoma and Nebraska, argued that federal statutes and international treaties purporting to criminalize the plant override state laws. Without explanation, though, the high court declined to hear the case. That means Colorado and numerous other states, where voters or their elected officials have [nullified federal marijuana statutes](#) and [United Nations drug conventions](#), are free to continue exercising their sovereignty and right to self-government.



In the lawsuits, which [drew criticism from across the political spectrum](#), the attorneys general of Nebraska and Oklahoma argued that their states were being injured by Colorado voters' 2012 referendum that ended criminal penalties on consuming, growing, or selling marijuana. The Colorado decision, which Oklahoma and Nebraska officials sought to overturn, also [established a regulatory and taxation regime surrounding cannabis](#) aimed at raising revenue and controlling certain aspects of the market. Even as GOP-controlled Oklahoma was [helping to lead the way in nullifying unconstitutional federal statutes](#), though, its attorney general claimed federal statutes and UN treaties trump state laws, an argument more often associated with Democrats and liberals.

In a six-to-two decision handed down on March 21, more than a year after the complaint was filed, the Supreme Court rejected the case. Dissenting were conservative-leaning justices Alito and Thomas, who said the court should have heard the case because disputes between states were within its mandatory jurisdiction. "I would not dispose of the complaint so hastily," Thomas [wrote](#). He argued that Oklahoma and Nebraska's attorneys general had made a "reasonable case" that the Supreme Court did not have discretion to simply dismiss such disputes between states. And the high court is indeed the venue for states to wage legal battles, he said, citing the Constitution.

However, Thomas also acknowledged that the court had refused to consider such cases before, which legal experts attributed to the justices believing that the cases were too weak to even deserve a hearing. U.S. Solicitor General Donald Verrilli also asked the court to dismiss the case last year, arguing that it would "represent a substantial and unwarranted expansion of this court's original jurisdiction." Even Obama's previous attorney general, the scandal-plagued federal supremacist Eric Holder, had also acknowledged in congressional testimony that there [were limits to the federal government's ability to coerce state governments](#) into criminalizing substances or taking other actions. The Supreme Court has also made clear that the feds cannot commandeer state resources.



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For advocates of federalism, the Supreme Court's dismissal this week was a positive development. "I am very pleased with the Court's decision," said State Representative Mike Ritze (R-Okla.), a constitutional conservative who [tried to stop his state's suit against Colorado](#). "I do not condone the use of marijuana, nor do I support the legalization of it, but we live in a federalist society that was created to protect the sovereignty of the states. Every state should be permitted to govern its citizens as that state's elected officials see fit. We don't want or need the federal government dictating to the states what activities or substances it must criminalize."

Representative Ritze, who last year waged a high-profile battle to quash the lawsuit and defend the U.S. Constitution's 10th Amendment, also promoted the vision of the Founders when it comes to policymaking. "Unlike the federal government, our states are allowed to experiment with various policies and social structures, which are wanted or which benefit that state's citizens," he explained. "If a citizen doesn't like the policies or social structures in one state, he or she can freely move to another. This decision today was a victory for those of us who believe in states' rights."

In a letter signed by Ritze and numerous other members of the legislature, a group of Oklahoma lawmakers [previously warned about the implications of citing UN treaties](#) in the suit as well. "If the argument in the lawsuit were successful, the federal government could, in theory, adopt any UN treaty, then force the states, including Oklahoma, to help impose it," they wrote last year. "With the UN Arms Trade Treaty, the UN Convention on the Rights of the Child, and many other troubling instruments emerging from this international body, we believe Oklahoma would be better served by arguing against the validity of these extra-constitutional treaties."

After the court's decision, George Mason University Professor of Law Ilya Somin noted that the Nebraska-Oklahoma lawsuit "was ill-conceived and would have severely undermined constitutional federalism, had it prevailed." While Somin said the justices probably should have outlined their reasons for refusing to hear the case, refusing it was appropriate nonetheless. "The Supreme Court has ruled that the federal government cannot compel states to enforce federal law, and it is even more obvious that fellow states cannot do so," he said. "It is ironic that this lawsuit was brought by two state governments that, in other contexts, have forcefully advocated state autonomy and tighter enforcement of constitutional limits on federal power."

Aside from advocates for federalism, the Supreme Court's decision was also praised by a wide array of groups across America and across the political spectrum. Law Enforcement Against Prohibition (LEAP), a criminal justice group that opposes the War on Drugs, for example, sent out a statement praising the court and blasting efforts by officials in Nebraska and Oklahoma. "If Nebraska and Oklahoma had the good sense to legalize and regulate marijuana too, we wouldn't even be having this conversation," said LEAP Executive Director Major Neill Franklin (Ret.), a retired lawman whose group of criminal justice professionals believe many problems associated with drugs — violence, crime, gangs, and more — actually result from prohibition. "What a monumental waste of time to ask our highest court to solve a problem that could be fixed with a well-written piece of legislation or a ballot initiative."

Cannabis advocates hailed the decision as well. The group Marijuana Majority, which touts polls finding that a majority of Americans oppose marijuana prohibition, also blasted the attorneys general for their suit. "The justices correctly decided that this lawsuit is without merit and that states should be able to move forward with implementing voter-approved legalization laws even if their neighbors don't like it," said Tom Angell, a spokesman for the organization, which highlights surveys showing that some eight to nine out of ten Americans oppose jail time for marijuana offenses and support ending prohibition of



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medical cannabis. “That will allow their criminal justice systems to focus on real crime, and it will generate revenue that can be used to pay for health care, education and public safety programs.”

Other advocacy groups, however, cautioned against reading too much into the Supreme Court’s refusal to hear the case. “Although this order makes great fodder for Supreme Court watchers to chat about, it is strictly jurisdictional and makes no comments whatsoever on the lawsuit’s merits,” argued Smart Approaches to Marijuana (SAM) chief Kevin Sabet, whose group has been fighting a growing wave of states deciding to nullify prohibition of the plant for medical and recreational uses. “At the end of the day, it only means that a federal trial court will hear the case, like most federal lawsuits. Any other interpretation is just speculation.”

Critics of marijuana and the trend among state and local governments to nullify federal and UN prohibition of the plant contend that it is a drug that carries health risks. Among other concerns, anti-drug activists say that marijuana can produce mental-health problems, memory problems, apathy, and more. Some also worry about marijuana serving as a “gateway drug” to other, harder drugs. Most recently, *The New American* reported on a study, published by the *Journal of the American Medical Association Internal Medicine*, that found [marijuana exposure was associated with poorer verbal memory and attention](#).

Federal supremacists and critics of states’ decision to end prohibition often point to the “supremacy clause” to make their case. The U.S. Constitution, however, only says that federal laws and properly ratified treaties made in accordance with that Constitution are the supreme law of the land — not statutes or treaties created in defiance thereof. Of course, the federal government has no authority to ban substances. That is [why a constitutional amendment was required for alcohol prohibition](#).

Leaving the wisdom of consuming mind-altering drugs aside, supporters of reining in the federal government’s usurpation of power have much to celebrate in the growing use of nullification by even liberal and Democrat-controlled state governments. From gun control and healthcare to education and the environment, Washington, D.C. has stepped far outside its constitutional boundaries. To reverse the tide of anti-constitutional government and centralized control, state governments across America can take a lesson from Colorado and other states that are defying the feds and the UN. That is an easy way to restore liberty, and [it continues to be proven effective](#).

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