

CBS News Special Report

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TONY DOKOUPIL: Good to be with you. This is a CBS News Special Report. I'm Tony Dokoupil in New York and we are interrupting our normal programing because the Supreme Court has just issued what is a major ruling on the president's use of tariffs. We have a team going through this decision right now from a legal and economic and a political point of view. But first, our legal correspondent Jan Crawford, who has the decision for us in Washington, Jan.

JAN CRAWFORD: Tony, this decision is 6-to-3, invalidating President Trump's use of the sweeping tariffs imposing tariffs on almost every trading partner worldwide. This is the most significant U.S. Supreme [Court] loss for a U.S. President, I think, in modern history. It is invalidating what is the cornerstone of President Trump's economic policy, ruling that he does not have authority under this federal law, the International Emergency Economic Powers Act, to levy these sweeping tariffs, like I said, on almost every global trading partner worldwide. Now, there are other issues involved. There are many different decisions from all of the justices. This is a deeply divided issue. They're not agreeing with all of the reasons why. But the bottom line is it's six three with two of President Trump's appointees, Justice Amy Coney Barrett and Justice Neil Gorsuch, joining the chief Justice John Roberts, and the three liberal justices to invalidate the use of these sweeping tariffs. There are three dissenters, led by another appointee, Justice Brett Kavanaugh, joined by Justice Samuel Alito and Clarence Thomas. But the bottom line Tony, a major defeat for the President. I think you can put that right up there with some of the most significant Supreme Court losses by a U.S. president in history."

DOKOUPIL: All right, Jen, thank you very much. Let's go to CBS News legal analyst Jessica Levinson, who's also reading this decision with us this morning. We knew this was going to be a nuanced legal case. And indeed it was. What were the big questions and how were they decided?

JESSICA LEVINSON: So, the big question, exactly as Jan said, is whether or not the President has the power to impose these sweeping tariffs under this particular law. It looks like a lengthy, divided, and complicated opinion. But the bottom line is exactly what Jan said, which is the President does not have the power under this particular statute. Why? Because of the text of the statute and because of the power that the President — the Constitution gives to the President versus Congress. It looks like, based on our reading, that this is all about the idea that the Constitution gives Congress the power to regulate commerce, that the Constitution gives Congress the power to impose taxes, and that when we look at this particular statute, it does not look like a delegation of Congress's authority. Like, we have the power under the Constitution are we now going to shift that over to you, the president? And today, the Court says, no, obviously, it's a case with huge implications in terms of the economy in terms of the power of any president. But based on our reading right now, it looks like this is all about looking at specific words like regulate and determining what that means for the power of any president again, under this particular statute.

DOKOUPIL: And yet so much money has already been outlaid in particular by Americans to deal with these tariffs. I want to give our legal team a little bit more time to go through this decision and look at the potential remedies, what's been decided here. But in the meantime, I want to bring in our senior White House and political correspondent Ed O'Keefe, because Ed, as Jan outlined, this is obviously a major defeat for the White House on one of its key economic policy agendas. What now?

ED O'KEEFE: And not only the economic agenda, but arguably the foreign policy agenda as well, Tony, because the hope here at the White House, at times, was to be able to use the threat of tariffs as sort of a coercive tool to get their way with certain countries or certain parts of the world most especially Europe, in recent weeks. We have no reaction yet from the President, who is at this hour, still meeting, we believe, behind closed doors here at the White House with a collection of the nation's governors who happen to be here in town this weekend for their annual meetings in Washington. The President has said, though in recent weeks that were this to happen and the Supreme Court does not uphold his tariffs, "we're screwed. It would take many years to figure out what number we're talking about and even who, when and where to pay back." The Trump administration has collected at least \$130 billion in tariff revenue, according to U.S. Customs and Border Protection reports out in recent days. And there will be businesses across this country now wondering, do I get my money back and do I get it back with interest? More than 100 different companies of all sizes have filed suit, raising questions about the legality of these tariffs. And the question now will be, does he perhaps try to seek tariffs or put them in place in other ways? There are ways, in fact, he could do that. We've seen him, for example, put tariffs on various sectors of the economy, like the semiconductor and manufacturing equipment that goes with them, medium and heavy duty trucks and parts, critical minerals, pharmaceuticals. Does he perhaps pursue ways to go into those specific sectors, depending on what part of the world they happen to be produced in, if not here in the United States? The other thing he could try to do is, is use essentially national security rationale to put in place some tariffs as well. But again, no — no definitive response yet from this White House, which had to know for the last several weeks, if not several months since this was argued that this was a possibility and we should also point out the court now in essence, is aligning itself with public opinion, which has found this to be an incredibly unpopular move to put — put these tariffs in place, and it contributes to America's concerns about the American voters, concerns about the state of the economy. 63 percent of Americans oppose these tariffs on — on — on goods and services and believe more broadly that the administration has focused too much on imposing tariffs and not enough on driving down prices in other ways. So, we will await reaction here. But as Jan said, an incredibly strong rebuke here by the Supreme Court by two of his appointees joining with the Court's liberals to say no, the president overstepped here and it's Congress that's supposed to be imposing tariffs as part of U.S. economic policy.

DOKOUPIL: And, Ed, you're right to point out that it is not an exaggeration to say the whole world was waiting on this decision —

O'KEEFE: Exactly.

DOKOUPIL: — because much of the world has been entangled in these tariffs. And you

mentioned the powers of Congress. We have a quote here from the majority opinion. Chief Justice Roberts saying: “The Framers gave Congress alone the power to impose tariffs during peacetime.” I want to bring in our Washington correspondent, Major Garrett, who is also reacting to all of this for us. Major Garrett, the Supreme Court in other matters has gone in the President’s direction, but not on this one. What does that mean?

MAJOR GARRETT: Well, the Supreme Court is well aware of the Constitutional history of generating revenue, a power explicitly reserved to Congress in its origination in the Constitution. And before, we had an income tax in this country, we raised revenue principally through tariffs. And there were lots of conflicts that previous Supreme Courts dealt with about the legality of those tariffs. That precedent is a backdrop for this. President Trump has jawboned and criticized this Court, saying if you rule against me you’re going to destroy our economy, waging a very aggressive public relations campaign. But the Court cares what the Constitution says and what precedent says. It’s interesting to note, Tony, this 1977 law that Jan and others have referred to grew out of a crisis with Iran after the Iranian revolution, and it has been used principally to freeze assets or to levy sanctions. The Trump administration told the Supreme Court it had almost unlimited powers to impose tariffs, not just as an economic matter but as a diplomatic cudgel. And what the Court said and I think this is important. Summarizing the administration’s argument before it, “that view would represent a transformational expansion of the President’s authority over tariff policy. It is also telling,” the court wrote, “that in the IEEPA’s half century — that’s the law of existence — no president has invoked the statute to impose any tariffs, let alone tariffs, of the magnitude of this magnitude and scope.” So essentially, what the Court is saying is we have a Congress. Congress is negotiate laws with presidents, as this law was negotiated. If you follow that law, you can do it. If you expand way beyond that law, you can’t. And to Ed’s previous point, there’s another law in 1962 — law — the Trade Expansion Act, there’s a section 232 there. This President — previous presidents have used that to impose tariffs. There are many remedies this administration could look to and the trade representative, Jamieson Greer has said many times, if we lose in the Supreme Court, we have other remedies to advance our tariff agenda. This is not the end of the tariff conversation under this administration, but it is a setback significantly on this variant of using tariffs the way the President has attempted to enforce them.

DOKOUPIL: Major, thank you very much. Let’s talk about the economic impact now with our CBS News senior business and technology correspondent, Jo Ling Kent. Jo, Major touched on, Ed did as well. The magnitude of these tariffs and did as well 130 billion, give or take, that 90 percent of which American consumers have borne the burden of, according to the New York Reserve. What happens now?

JO LING KENT: Yeah, that comes from the New York Federal Reserve. But I want to tell you, my phones are exploding right now with reaction from small business owners across the country we’ve been interviewing people about these tariffs for over the last year. And Emily Ley, a small business owner in Sarasota, Florida, tells me she’s thrilled. She’s relieved. It gives us clarity. She runs a very successful stationery and planner business. Another business owner, Beth, in Zumbrota, Minnesota, Southern Minnesota, she runs Busy Baby Mat and she says she’s seeing major relief that this is bittersweet. She just signed another \$13,000 check to — you know for

these tariffs to China last week. And now she feels like maybe she can start seeking a refund. Now when you pull back, how much does the average American household paid for these tariffs, you can see it's about \$1,700, according to the Yale Budget Lab. So what happens next? If this continues to move a pace, we expect overall prices, which could be good news for consumers to drop. But that won't happen quickly. We also expect to see perishable items your fruits and veggies, they actually might go down in price a little bit more quickly. You might see durable goods like your tech products and furniture see a slight decrease as well. And you can see overall the price increases that you may be facing at home due to tariffs across the board there especially in apparel, things that are imported from overseas. But if you're looking for a Trump tariff refund, if you will, as an individual family member, for example, that's probably off the table. But we do expect businesses to start seeking tariffs and perhaps forming class action lawsuits to get this money back. As a result of this ruling those companies could get refunds from the Treasury. But overall, the small business reaction has been overwhelmingly positive, saying they feel that they're thrilled and they're relieved.

DOKOUPIL: All right, Jo Ling, thank you very much I want to go back to our chief legal correspondent, Jan Crawford. After that short breather, she dug into the report a little bit more Jan, it's not a straightforward ruling.

CRAWFORD: We have seven.

DOKOUPIL: A lot of American businesses are wondering what now, what changed in the last 15 minutes about American economic life?

CRAWFORD: Well, that's to be determined because, as Jo Ling said, Trump has other areas. Those are much more limited, though. They can't be this sweeping. But I think what's really interesting, Tony, is six of the justices, three conservatives and three liberals came together. They didn't agree on the bottom line, but they — I mean, they didn't agree on the reasons, but they agreed on the bottom line. And what this says is that all of these people who have been saying that this is a Supreme Court that's in the tank for Donald Trump, need to take a look at the facts. Yes, this is a Court that recently has been giving the Trump administration some temporary wins, not letting lower court judges block all of his policies while the litigation unfolded. But as we have discussed, Tony, when the Court is considering the merits of these cases involving President Trump, he is not going to win them all and this will not be the first case he loses in the Court this term.

DOKOUPIL: And so, Jan, if we see additional tariff levers used by the president, is there a chance we could end up right back at a crossroads like the one we're at right now?

CRAWFORD: I'm sure they'll be litigation, but those I think are in much more solid legal ground, Tony.

DOKOUPIL: All right. Thank you very much. Again, a major decision from the U.S. Supreme Court just moments ago, a 6-3 decision. Most of President Trump's tariffs were invalidated.