

1 IN THE SUPREME COURT OF THE UNITED STATES

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3 ALBERTO R. GONZALES, :

4 ATTORNEY GENERAL, ET AL., :

5 Petitioners, :

6 v. : No. 04-1084

7 O CENTRO ESPIRITA BENEFICIENTE :

8 UNIAO DO VEGETAL, ET AL. :

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10 Washington, D.C.

11 Tuesday, November 1, 2005

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13 The above-entitled matter came on for oral
14 argument before the Supreme Court of the United States at
15 11:05 a.m.

16 APPEARANCES:

17 EDWIN S. KNEEDLER, ESQ., Deputy Solicitor General,
18 Department of Justice, Washington, D.C.; on behalf of
19 the Petitioners.

20 NANCY HOLLANDER, ESQ., Albuquerque, New Mexico; on behalf
21 of the Respondents.

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1 MR. KNEEDLER: Yes, a preliminary injunction.

2 JUSTICE O'CONNOR: And we have to find that, for
3 the trial court to have issued it, it was an abuse of
4 discretion?

5 MR. KNEEDLER: Well, with respect to certain
6 aspects of the preliminary injunction question, yes. For
7 example, whether a preliminary injunction should -- is the
8 proper remedy if all the other criteria are satisfied.

9 JUSTICE O'CONNOR: You know --

10 MR. KNEEDLER: But --

11 JUSTICE O'CONNOR: -- the court found evidence
12 in equipoise and so on and so forth, so I just wondered,
13 at the bottom line, what our legal standard is here.

14 MR. KNEEDLER: Yes. We believe that the Court
15 of Appeals erred -- or District Court and Court of Appeals
16 erred, as a matter of law, in entering the injunction --

17 JUSTICE O'CONNOR: Abused its discretion.

18 MR. KNEEDLER: Well, abused -- a court always
19 abuses its discretion if it -- if it commits a legal
20 error. So, that is basically our position here.

21 JUSTICE KENNEDY: It seems to me your position
22 is that you must -- we must give controlling determinative
23 weight to the fact that it's listed in Schedule 1. And
24 the respondents say you don't give it any weight at all,
25 it's all on a case-by-case basis. Is there a middle

