

(Slip Opinion)

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

DEPARTMENT OF REVENUE OF MONTANA v. KURTH RANCH ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 93-144. Argued January 19, 1994—Decided June 6, 1994

Montana law enforcement officers raided the farm of respondents — members of the extended Kurth family—arrested them, and confiscated and later destroyed their marijuana plants. After the Kurths pleaded guilty to drug charges, petitioner revenue department attempted, in a separate proceeding, to collect a state tax imposed on the possession and storage of dangerous drugs. That tax is collected only after any state or federal fines or forfeitures have been satisfied, and taxpayers must file a return after they are arrested. In bankruptcy proceedings filed by the Kurths, they objected to petitioner's proof of claim for the tax and challenged the tax's constitutionality. The Bankruptcy Court held, among other things, that the assessment on harvested marijuana, a portion of which resulted in a tax eight times the product's market value, was a form of double jeopardy invalid under the Federal Constitution, and the District Court affirmed. In affirming, the Court of Appeals determined that the central inquiry under *United States v. Halper*, 490 U. S. 435, is whether the sanction imposed is rationally related to the damages the government suffered, that the Kurths were entitled to an accounting to determine if the sanction constituted an impermissible second punishment, and that the tax was unconstitutional as applied to them because the State refused to offer any such evidence.

Held: The tax violates the constitutional prohibition against successive punishments for the same offense. Pp. 8-17.

(a) Although deciding in *Halper* that a legislature's description of a statute as civil does not foreclose the possibility that it has a punitive character, and that a defendant convicted

and punished for an offense may not have a nonremedial civil penalty imposed against him for the same offense in a separate proceeding, the Court did not consider whether a tax may similarly be characterized as punitive. However, the Court's recognition that the extension of a so-called tax's penalizing feature can cause it to lose its character as such and become a mere penalty, *A. Magnano Co. v. Hamilton*, 292 U. S. 40, 46, together with *Halper's* unequivocal statement that labels do not control in a double jeopardy inquiry, indicates that a tax is not immune from double jeopardy scrutiny simply because it is a tax. Pp. 8-12.

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(b) While taxes are usually motivated by revenue-raising rather than punitive purposes, Montana's tax departs far from normal revenue laws. Its high rate and deterrent purpose, in and of themselves, do not necessarily render it punitive, but other unusual features set it apart from most taxes. That it is conditioned on the commission of a crime is significant of penal and prohibitory intent rather than the gathering of revenue. It is also exacted only after the taxpayer has been arrested for the precise conduct that gives rise to the tax obligation in the first place. Since the taxed activity is completely forbidden, the legitimate revenue-raising purpose that might support the tax could be equally well served by increasing the fine imposed upon conviction. In addition, it purports to be a property tax, yet it is levied on goods—here, the destroyed marijuana plants—that the taxpayer neither owns nor possesses. Pp. 12–16.

(c) Since tax statutes serve a purpose quite different from civil penalties, it is inappropriate to subject Montana's tax to *Halper's* test for a civil penalty: whether the penalty is imposed as a remedy for actual costs to the State that are attributable to the defendant's conduct. Moreover, Montana has not claimed that its assessments can be justified on such grounds, and the same formula would have been used to compute the assessment regardless of the State's damages or whether it suffered any damages. Montana's tax is not the kind of remedial sanction that may follow the first punishment of a criminal offense. It is a second punishment that must be imposed during the first prosecution or not at all. Pp. 16–17.

986 F. 2d 1308, affirmed.

STEVENS, J., delivered the opinion of the Court, in which BLACKMUN, KENNEDY, SOUTER, and GINSBURG, JJ., joined. REHNQUIST, C. J., and O'CONNOR, J., filed dissenting opinions. SCALIA, J., filed a dissenting opinion, in which THOMAS, J., joined.