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Supreme court fails to reach consensus on wetland policy



The Supreme Court ruled 5-4 Monday that the court may have misinterpreted the federal Clean Water Act by refusing to allow two Michigan property owners to build a shopping mall and condos on wetlands.

At the same time, justices could not reach a consensus on whether government wetlands protection extends miles away from waterways.

The decision is the first significant environmental ruling for the high court headed by new Chief Justice John Roberts, and justices were so fractured that the majority opinion only had the votes of four justices.

Justice Roberts, one of those four, said that the result was so confusing that "lower courts and regulators now have to feel their way on a case-by-case basis."

The court voided rulings against June Carabell and John Rapanos, who wanted to fill their wetlands in St. Clair in Macomb County. Carabell wanted to build condos on wetlands she owns about a mile from a lake. Rapanos wanted to put a shopping mall on his property, which is about 20 miles from the lake.

Instead of ruling in the property owners' favor, as they requested, justices said lower courts must determine whether ditches and drains near wetlands are waters.

The court's four most conservative members wanted a more sweeping ruling, clearing the way for development of land unless it was directly connected to waterways.

The court's four most liberal members said that such a ruling would reject three decades of practice by the Army Corps of Engineers and threaten the environment.

In the middle was Justice Anthony M. Kennedy.

By Gina Holland, Associated Press Writer

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