

03-878 CRAWFORD v. MARTINEZ

Ruling below: CA 9, unreported decision in case 03-35053

QUESTION PRESENTED

In *Zadvydas v. Davis*, 533 U.S. 678 (2001), this Court avoided constitutional concerns by interpreting 8 U.S.C. 1231(a)(6) to limit to a "reasonable time" the period that permanent resident aliens may be detained following final orders directing their removal from the United States. Applying that standard, the Court held that a resident alien generally may not be detained under Section 1231(a)(6) for more than six months after being ordered removed, if the alien demonstrates that there is not a significant likelihood of removal in the reasonably foreseeable future. The question presented in this case is whether Section 1231(a)(6) and *Zadvydas* compel the release of an arriving alien who was apprehended at the border of the United States, denied admission, and ordered removed from the United States.

CERT. GRANTED: 3/1/04

Consolidated with 03-7434, for one hour oral argument.

03-7434 BENITEZ v. WALLIS

Ruling below: CA 11, 337 F.3d 1289

QUESTIONS PRESENTED

In *Zadvydas v. Davis*, 533 U.S. 678 (2001), this Court interpreted 8 U.S.C. § 1231(a)(6) to authorize the detention of an alien subject to a removal order, but only for a reasonable period of time until it can be determined whether there is a country to which the alien can be removed. Although § 1231(a)(6) applies to both admitted and non-admitted aliens, the Court emphasized that the aliens at issue in *Zadvydas* had been lawfully admitted and that non-admitted aliens "would present a very different question." This case raises two, independent questions about the applicability of § 1231(a)(6) to non-admitted aliens:

I. Whether the same language in § 1231(a)(6), which does not distinguish in its application between admitted and non-admitted aliens, may be interpreted differently for non-admitted aliens than for admitted aliens;

and, if not,

II. Whether interpreting § 1231(a)(6) to authorize the indefinite detention of a non-admitted alien would raise a constitutional question sufficient to warrant interpreting the statute to avoid the question.

CERT. GRANTED: 1/16/04

Expedited briefing schedule.