

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Walter Melara Martinez v. Christopher LaRose

No. No. 19-3908, United States Court of Appeals for the Sixth Circuit (July 27, 2020)

SUMMARY

The Sixth Circuit held that 8 U.S.C. § 1231(a), not § 1226(a), provides the statutory authority for detaining aliens in withholding-only proceedings, meaning such aliens are not entitled to bond hearings. The court also held that the petitioner's continued detention did not violate due process under *Zadvydas v. Davis* because his removal was reasonably foreseeable given the pending immigration proceedings. The decision joins the Third and Ninth Circuits in a split with the Second and Fourth Circuits on the statutory interpretation issue.

CASE DETAILS

COURT	United States Court of Appeals for the Sixth Circuit
WRITING FOR THE COURT	Siler; Gibbons; Thapar
JURISDICTION	Federal
DECIDED	July 27, 2020
DOCKET	No. 19-3908
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from district court dismissal of § 2241 habeas petition
STANDARD OF REVIEW	De novo review of district court's denial of § 2241 petition and statutory interpretation.
PRECEDENTIAL VALUE	Published
PARTIES	Walter Melara Martinez v. Christopher LaRose, et al.

TOPICS

- removal proceedings
- due process
- statutory interpretation
- habeas corpus
- appellate jurisdiction
- standard of review

PRACTICE AREAS

- Immigration

QUESTIONS PRESENTED

1. Whether aliens in withholding-only proceedings are detained under 8 U.S.C. § 1226(a) or § 1231(a), entitling them to a bond hearing.
2. Whether continued detention without a bond hearing violates due process under *Zadvydas v. Davis*.

HOLDINGS

1. Section 1231(a) provides the authority for detaining aliens in withholding-only proceedings, such that they are not entitled to a bond hearing under the regulations.
2. Because Melara's removal is reasonably foreseeable, his continued detention does not violate due process at this time under the *Zadvydas* framework.

KEY QUOTATIONS

“Section 1226(a) states: ‘On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.’” (at 5)

“Section 1231(a)(1)(A) holds: ‘Except as otherwise provided in this section, when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the ‘removal period’).’” (at 5-6)

“Section 1231(a)(5) explains that ‘[i]f the Attorney General finds that an alien has reentered the United States illegally after having been removed . . . the prior order of removal is reinstated from its original date and is not subject to being reopened or reviewed.’” (at 7)

“The Supreme Court noted: ‘We have found nothing in the history of these statutes that clearly demonstrates a congressional intent to authorize indefinite, perhaps permanent, detention. Consequently, interpreting the statute to avoid a serious constitutional threat, we conclude that, once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.’” (at 12)

FACTUAL BACKGROUND

Melara, a native of El Salvador, reentered the United States illegally after a prior removal. His 2008 removal order was reinstated. He expressed fear of returning to El Salvador due to MS-13 threats, leading to withholding-only proceedings. He has been detained since December 2017. The IJ denied withholding, and the BIA initially dismissed the appeal but later vacated and reinstated it after remand.

PROCEDURAL HISTORY

Melara filed a habeas corpus petition in the Northern District of Ohio seeking release or a bond hearing. The district court dismissed the petition, holding that § 1231(a) governs his detention and that his removal is reasonably foreseeable.

DISPOSITION

affirmed

CASES CITED

- *Zadvydas v. Davis*, 533 U.S. 678 (2001)
- *Guerrero-Sanchez v. Warden York Cty. Prison*, 905 F.3d 208 (3d Cir. 2018)
- *Padilla-Ramirez v. Bible*, 882 F.3d 826 (9th Cir. 2017)
- *Guzman Chavez v. Hott*, 940 F.3d 867 (4th Cir. 2019)
- *Guerra v. Shanahan*, 831 F.3d 59 (2d Cir. 2016)
- *Nasrallah v. Barr*, 140 S. Ct. 1683 (2020)
- *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018)
- *Hosseini v. Johnson*, 826 F.3d 354 (6th Cir. 2016)
- *Christian v. Wellington*, 739 F.3d 294 (6th Cir. 2014)
- *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006)
- *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003)
- *Hamama v. Adducci*, 946 F.3d 875 (6th Cir. 2020)