

Syllabus

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 Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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CLARK, FIELD OFFICE DIRECTOR, SEATTLE,
IMMIGRATION AND CUSTOMS ENFORCEMENT,
ET AL. *v.* MARTINEZ

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

No. 03–878. Argued October 13, 2004—Decided January 12, 2005*

If an alien is found inadmissible and ordered removed, the Secretary of Homeland Security (Secretary) ordinarily must remove the alien from the country within 90 days. 8 U. S. C. §1231(a)(1)(A). Here, Martinez, respondent in No. 03–878, and Benitez, petitioner in No. 03–7434, Cuban nationals who are both inadmissible under §1182, were ordered removed, but were detained beyond the 90-day removal period. Each filed a habeas corpus petition challenging his continued detention. In Martinez’s case, the District Court found that removal was not reasonably foreseeable and ordered that Martinez be released under appropriate conditions. The Ninth Circuit affirmed. In Benitez’s case, the District Court also accepted that removal would not occur in the foreseeable future, but nonetheless denied the petition. The Eleventh Circuit affirmed.

Held:

1. Under §1231(a)(6), the Secretary may detain inadmissible aliens beyond the 90-day removal period, but only for so long as is reasonably necessary to achieve removal. Section 1231(a)(6)’s operative language, “may be detained beyond the removal period,” applies equally to all aliens that are its subject, whether or not those aliens have been admitted to the country. In *Zadvydas v. Davis*, 533 U. S. 678, this Court interpreted §1231(a)(6) to authorize the detention of aliens

*Together with No. 03–7434, *Benitez v. Rozos, Field Office Director, Miami, Immigration and Customs Enforcement*, on certiorari to the United States Court of Appeals for the Eleventh Circuit.

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who have been admitted to the country only as long as “reasonably necessary” to effectuate their removal. *Id.*, at 689, 699. This interpretation must apply to inadmissible aliens as well. Even if the statutory purpose and constitutional concerns influencing the *Zadvydas* construction are not present for inadmissible aliens, that cannot justify giving the *same* statutory text a different meaning depending on the characteristics of the aliens involved. *Crowell v. Benson*, 285 U. S. 22, *Raygor v. Regents of Univ. of Minn.*, 534 U. S. 533, and *Jinks v. Richland County*, 538 U. S. 456, distinguished. Moreover, contrary to the Government’s argument, nothing in *Zadvydas* indicates that §1231(a)(6) authorizes detention until it approaches constitutional limits. Nor does §1182(d)(5) independently authorize continued detention of these aliens. Pp. 5–14.

2. In *Zadvydas*, the Court further held that the presumptive period during which an alien’s detention is reasonably necessary to effectuate removal is six months, and that he must be conditionally released after that time if he can demonstrate that there is “no significant likelihood of removal in the reasonably foreseeable future.” 533 U. S., at 701. The Government having suggested no reason that the time reasonably necessary for removal is longer for an inadmissible alien, this same 6-month presumptive detention period applies in these cases. Because both Martinez and Benitez were detained well beyond six months after their removal orders became final, the Government has brought forward nothing to indicate that a substantial likelihood of removal subsists, and the District Court in each case has determined that removal to Cuba is not reasonably foreseeable, the habeas petitions should have been granted. Pp. 14–15.

No. 03–878, affirmed; No. 03–7434, 337 F. 3d 1289, reversed; and both cases remanded.

SCALIA, J., delivered the opinion of the Court, in which STEVENS, O’CONNOR, KENNEDY, SOUTER, GINSBURG, and BREYER, JJ., joined. O’CONNOR, J., filed a concurring opinion. THOMAS, J., filed a dissenting opinion, in which REHNQUIST, C. J., joined as to Part I–A.