

15-1204 JENNINGS V. RODRIGUEZ

DECISION BELOW: 804 F.3d 1060

LOWER COURT CASE NUMBER: 13-56706, 13-56755

QUESTION PRESENTED:

Under 8 U.S.C. 1225(b), inadmissible aliens who arrive at our Nation's borders must be detained, without a bond hearing, during proceedings to remove them from the country. Under 8 U.S.C. 1226(c), certain criminal and terrorist aliens must be detained, without a bond hearing, during removal proceedings. Under 8 U.S.C. 1226(a), other aliens may be released on bond during their removal proceedings, if the alien demonstrates that he is not a flight risk or a danger to the community. 8 C.F.R. 236.1(c)(8). Aliens detained under Section 1226(a) may receive additional bond hearings if circumstances have changed materially. 8 C.F.R. 1003.19 (e). The questions presented are:

1. Whether aliens seeking admission to the United States who are subject to mandatory detention under Section 1225(b) must be afforded bond hearings, with the possibility of release into the United States, if detention lasts six months.
2. Whether criminal or terrorist aliens who are subject to mandatory detention under Section 1226(c) must be afforded bond hearings, with the possibility of release, if detention lasts six months.
3. Whether, in bond hearings for aliens detained for six months under Sections 1225(b), 1226 (c), or 1226(a), the alien is entitled to release unless the government demonstrates by clear and convincing evidence that the alien is a flight risk or a danger to the community; whether the length of the alien's detention must be weighed in favor of release; and whether new bond hearings must be afforded automatically every six months.

ORDER OF December 15, 2016:

THE PARTIES ARE DIRECTED TO FILE SUPPLEMENTAL BRIEFS ADDRESSING THE FOLLOWING QUESTIONS: 1) WHETHER THE CONSTITUTION REQUIRES THAT ALIENS SEEKING ADMISSION TO THE UNITED STATES WHO ARE SUBJECT TO MANDATORY DETENTION UNDER 8 U.S.C. § 1225(b) MUST BE AFFORDED BOND HEARINGS, WITH THE POSSIBILITY OF RELEASE INTO THE UNITED STATES, IF DETENTION LASTS SIX MONTHS. 2) WHETHER THE CONSTITUTION REQUIRES THAT CRIMINAL OR TERRORIST ALIENS WHO ARE SUBJECT TO MANDATORY DETENTION UNDER SECTION 1226(c) MUST BE AFFORDED BOND HEARINGS, WITH THE POSSIBILITY OF RELEASE, IF DETENTION LASTS SIX MONTHS. 3) WHETHER THE CONSTITUTION REQUIRES THAT, IN BOND HEARINGS FOR ALIENS DETAINED FOR SIX MONTHS UNDER SECTIONS 1225(b), 1226(c), OR 1226(a), THE ALIEN IS ENTITLED TO RELEASE UNLESS THE GOVERNMENT DEMONSTRATES BY CLEAR AND CONVINCING EVIDENCE THAT THE ALIEN IS A FLIGHT RISK OR A DANGER TO THE COMMUNITY, WHETHER THE LENGTH OF THE ALIEN'S DETENTION MUST BE WEIGHED IN FAVOR OF RELEASE, AND WHETHER NEW BOND HEARINGS MUST BE AFFORDED AUTOMATICALLY EVERY SIX MONTHS.

6/26/2017: THIS CASE IS RESTORED TO THE CALENDAR FOR REARGUMENT.

CERT. GRANTED 6/20/2016