

25-886 GENALO V. BLACK

DECISION BELOW: 103 F.4th 133

LOWER COURT CASE NUMBER: 20-3224, 22-70

QUESTION PRESENTED:

Under 8 U.S.C. 1226(c), certain criminal aliens are required to be detained pending a decision on whether they are to be removed from the United States. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), this Court held that Section 1226(c) prohibits the release of such aliens on bond. The Court reserved judgment on various constitutional issues on which it had ordered supplemental briefing, including whether the Due Process Clause requires bond hearings for certain Section 1226(c) detainees and, if so, what kind of bond hearing. Respondents here are two criminal aliens detained under Section 1226(c) for 7 and 21 months, respectively, pending their removal proceedings. The court of appeals held that each respondent's detention had become "unreasonably prolonged," such that due process entitled him to a bond hearing with the burden placed on the government to justify his continued detention by clear and convincing evidence. Pet. App. 5a. The questions presented are:

1. Whether there is a point at which an alien's detention under Section 1226(c), pending a decision on whether he is to be removed, becomes "unreasonably prolonged," such that due process requires a bond hearing.
2. If so, whether, in such a bond hearing, due process requires placing the burden on the government to justify the alien's continued detention by clear and convincing evidence.

THE PETITION FOR A WRIT OF CERTIORARI IS GRANTED AS TO UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT CASE NO. 22-70. IN ADDITION TO THE QUESTIONS PRESENTED BY THE PETITION, THE PARTIES ARE DIRECTED TO BRIEF AND ARGUE THE FOLLOWING QUESTION: WHETHER G.M.'S CASE IS NOW MOOT.

CERT. GRANTED 6/15/2026