

Supreme Court Rules Detained Immigrants Can Be Held Indefinitely

Pair of High Court rulings restrict ability of detainees to obtain bond hearings or sue for class-wide relief. by Christopher Hazlehurst, J.D.

QUEENS, NEW YORK, UNITED STATES, August 9, 2022 /EINPresswire.com/ -- On June 13, 2022, the Supreme Court issued a pair of opinions significantly undermining the rights of immigrants detained at the border. In one decision, the Court held that immigrants detained at the border are not entitled to a bond hearing after six months--in effect, allowing the government to detain noncitizens indefinitely. In the other decision, the Court determined that federal courts lack the authority to grant class-wide relief to detainees. Even if one detainee wishes to argue that they should be entitled to a bond hearing, they'll each have to bring that case on their own. Both cases were brought by unauthorized non-citizens who have been detained for long periods without any chance of pleading their case to a court.



Queens immigration attorney Scott Messinger

The first case, concerning the individual right to a bond hearing, is titled *Johnson v. Arteaga-Martinez* (U.S. Supreme Court, case No. 19-896, decided June 13, 2022). Arteaga-Martinez was detained pursuant to a 1996 immigration statute stating that unauthorized immigrants “may” remain in detention for an extended period of time, should they meet certain criteria. An asylum official had found it credible that Arteaga-Martinez would face violence and persecution if he were forced to return to Mexico, but the government decided to detain him for the pendency of his deportation case. After four months, he requested to be released on bond as he poses no flight risk or danger to the community. His case joined several others challenging the government’s interpretation of the law.

The case rose through the appeals process and wound up at the Supreme Court, where the

“

Many asylum seekers are considered “arriving” and therefore are not eligible to seek bond with the court if CBP or ICE decides to detain them.”

*Scott Messinger, Queens, NY
Immigration Attorney*

current administration argued the law grants the U.S. Attorney General the authority to detain unauthorized immigrants for any period of time during the pendency of their case. The Third Circuit Court of Appeals had held that detained immigrants were entitled to a bond hearing after six months, like other criminal defendants--an assessment as to whether they could be released without fear of fleeing or causing damage to the community. The Supreme Court disagreed, finding that noncitizens in an immigration detention center are not guaranteed the right to a bond hearing.

Surprisingly, the decision in *Johnson v. Arteaga-Martinez* was reached by an 8-1 vote, and the majority opinion was penned by Justice Sotomayor. Although she noted that nothing in the law prevented the government from granting such a hearing, detainees were not guaranteed such a hearing.

Justice Sotomayor, however, disagreed with and penned a dissenting decision in the day's other case, *Garland v. Gonzalez* (U.S. Supreme Court, case No. 20-322, decided June 13, 2022). In *Gonzalez*, the Court overturned a Ninth Circuit decision finding both that the law required the government to grant detainees a bond hearing and that the court had the authority to grant all detainees such a hearing at a class-wide level. In a 6-3 decision, the Court found that the Immigration and Nationality Act stripped the federal courts of jurisdiction to grant class-wide relief for said detainees.

Detainees are not guaranteed the right to counsel for immigration proceedings, so requiring each to bring their own individual claims effectively prevents the vast majority from being able to seek any sort of relief. The combined effect of these decisions is to allow the government to hold detainees indefinitely while their deportation cases slowly work their way through the process.

Immigration attorney Scott Messinger of the Queens, New York-based law firm [Gladstein & Messinger, P.C.](#), comments that these decisions could mean that immigration detainees, including asylum seekers, could be detained for very long periods. “Under the immigration law, “arriving aliens” are not entitled to a bond hearing before an Immigration Judge,” Messinger explains. “Many asylum seekers are considered “arriving” and therefore are not eligible to seek bond with the court if CBP (Customs and Border Protection) or ICE (Immigration and Customs Enforcement) decides to detain them.” Messinger fears these decisions might very well discourage people from coming to the US to obtain asylum. “Under the current administration,” he says, “ICE is releasing most aliens who have established a credible fear of persecution.”

Messinger notes that an alien subject to mandatory custody, or their family, can seek release from ICE. “If humanitarian factors are shown,” he says, “ICE will sometimes release an alien.”

Messinger adds, "Federal court litigation is also an option, but it will be difficult under the Supreme Court's recent decision."

It's not uncommon for detainees to remain in detention for several years while their case meanders through the backlogged immigration system. These decisions will serve only to exacerbate the problem and worsen the conditions faced by immigrants awaiting relief.

Scott Messinger

Gladstein & Messinger, P.C.

+1 718-793-7800

[email us here](#)

Visit us on social media:

[Facebook](#)

This press release can be viewed online at: <https://www.einpresswire.com/article/585061630>

EIN Presswire's priority is source transparency. We do not allow opaque clients, and our editors try to be careful about weeding out false and misleading content. As a user, if you see something we have missed, please do bring it to our attention. Your help is welcome. EIN Presswire, Everyone's Internet News Presswire™, tries to define some of the boundaries that are reasonable in today's world. Please see our Editorial Guidelines for more information.

© 1995-2022 Newsmatics Inc. All Right Reserved.