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WLF Urges U.S. Supreme Court to Uphold 1996 Law Requiring Detention of Criminal Aliens Pending Removal

(Jennings v. Rodriguez)

**“Congress reasonably determined that the only way to prevent alien felons from repeating their crimes is to lock them up pending deportation.”
—Richard Samp, WLF Chief Counsel**

WASHINGTON, DC—Acting for 31 Members of Congress, Washington Legal Foundation today asked the U.S. Supreme Court to uphold the constitutionality of a key aspect of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 that requires the detention of several classes of aliens—including convicted felons—while they contest efforts to deport them. In an *amicus* brief filed in *Jennings v. Rodriguez*, WLF points out that aliens who are detained pending removal can win their freedom at any time: they just have to agree to leave the country.

WLF filed its brief on behalf of 31 Members of Congress: House Judiciary Chairman Robert Goodlatte, Senate Judiciary Chairman Charles Grassley, House Homeland Security Chairman Michael McCaul, House Science Committee (and former Judiciary Committee) Chairman Lamar Smith, Senator Ted Cruz, and Representatives Brian Babin, Andy Biggs, Diane Black, Marsha Blackburn, Dave Brat, Mo Brooks, Scott DesJarlais, Jeff Duncan, Bill Flores, Trent Franks, Paul Gosar, Sam Graves, Jody Hice, Lynn Jenkins, Walter Jones, Steve King, Doug LaMalfa, Doug Lamborn, Blaine Luetkemeyer, Tom McClintock, Roger Marshall, John Ratcliffe, Mike Rogers, Dana Rohrabacher, Kevin Yoder, and Ted Yoho. The Members’ brief argues that Congress reasonably concluded that unless criminal aliens are detained awaiting completion of removal proceedings, there exists too great a danger that they will abscond and/or commit new felonies.

When the Supreme Court heard oral argument in this case last November, it focused on whether the lower courts misconstrued federal immigration statutes when they read limitations into the law on the detention of criminal aliens and newly arriving aliens who lack authorization to enter the country. The Court then sought input on the constitutionality of those statutes, directing the parties—and *amici*—to file supplemental briefs on whether aliens’ prolonged detention pending completion of removal proceedings violates their constitutional rights to due process of law.

Upon filing its brief, WLF issued the following statement by Chief Counsel Richard Samp: “Congress reasonably determined that the only way to prevent alien felons from repeating their crimes is to lock them up pending deportation. Such detention is always limited in duration: it ends as soon as removal proceedings are completed. In refusing to uphold that law, which every Presidential administration has enforced and defended since 1996, the lower courts forgot that the Constitution entrusts the regulation of immigration to Congress and the President.”

Celebrating its 40th year, WLF is the nation’s premier public-interest law firm and policy center that advocates for free-market principles, a limited and accountable government, individual and business civil liberties, and the rule of law.

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