SUPREME COURT OF THE UNITED STATES

Nos. 03–878 and 03–7434

A. NEIL CLARK, FIELD OFFICE DIRECTOR, SEATTLE, WASHINGTON, IMMIGRATION AND CUSTOMS ENFORCEMENT, ET AL., PETITIONERS

03–878 *v.*

SERGIO SUAREZ MARTINEZ

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

DANIEL BENITEZ, PETITIONER

03–7434 *v.*

MICHAEL ROZOS, FIELD OFFICE DIRECTOR, MIAMI, FLORIDA, IMMIGRATION AND CUSTOMS ENFORCEMENT

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

[January 12, 2005]

JUSTICE SCALIA delivered the opinion of the Court.

An alien arriving in the United States must be inspected by an immigration official, 66 Stat. 198, as amended, 8 U. S. C. §1225(a)(3), and, unless he is found "clearly and beyond a doubt entitled to be admitted," must generally undergo removal proceedings to determine admissibility, §1225(b)(2)(A). Meanwhile the alien may be detained, subject to the Secretary's discretionary authority to parole him into the country. See 8 U. S. C. §1182(d)(5); 8 CFR §212.5 (2004). If, at the conclusion of removal proceed-

ings, the alien is determined to be inadmissible and ordered removed, the law provides that the Secretary of Homeland Security "shall remove the alien from the United States within a period of 90 days," 8 U. S. C. §1231(a)(1)(A). These cases concern the Secretary's authority to continue to detain an inadmissible alien subject to a removal order *after* the 90-day removal period has elapsed.

I

Sergio Suarez Martinez (respondent in No. 03–878) and Daniel Benitez (petitioner in No. 03–7434) arrived in the United States from Cuba in June 1980 as part of the Mariel boatlift, see *Palma* v. *Verdeyen*, 676 F. 2d 100, 101 (CA4 1982) (describing circumstances of Mariel boatlift), and were paroled into the country pursuant to the Attorney General's authority under 8 U. S. C. §1182(d)(5).[1] See Pet. for Cert. in No. 03–878, p. 7; *Benitez* v. *Wallis*, 337 F. 3d 1289, 1290 (CA11 2003). Until 1996, federal law permitted Cubans who were paroled into the United States to adjust their status to that of lawful permanent resident after one year. See Cuban Refugee Adjustment Act, 80 Stat. 1161, as amended, notes following 8 U. S. C. §1255. Neither Martinez nor Benitez qualified for this adjustment, however, because, by the time they applied, both men had become inadmissible because of prior criminal convictions in the United States. When Martinez sought adjustment in 1991, he had been convicted of assault with a deadly weapon in Rhode Island and burglary

---

[1] The authorities described herein as having been exercised by the Attorney General and the Immigration and Naturalization Service (INS) now reside in the Secretary of Homeland Security (hereinafter Secretary) and divisions of his Department (Bureau of Immigration and Customs Enforcement and Bureau of Citizenship and Immigration Services). See Homeland Security Act of 2002, §§441(2), 442(a)(3), 451(b), 116 Stat. 2192, 6 U. S. C. §§251(2), 252(a)(3), 271(b) (2000 ed., Supp. II).

in California, Pet. for Cert. in No. 03–878, at 7; when Benitez sought adjustment in 1985, he had been convicted of grand theft in Florida, 337 F. 3d, at 1290. Both men were convicted of additional felonies after their adjustment applications were denied: Martinez of petty theft with a prior conviction (1996), assault with a deadly weapon (1998), and attempted oral copulation by force (1999), see Pet. for Cert. in No. 03–878, at 7–8; Benitez of two counts of armed robbery, armed burglary of a conveyance, armed burglary of a structure, aggravated battery, carrying a concealed firearm, unlawful possession of a firearm while engaged in a criminal offense, and unlawful possession, sale, or delivery of a firearm with an altered serial number (1993), see 337 F. 3d, at 1290–1291.

The Attorney General revoked Martinez's parole in December 2000. Martinez was taken into custody by the INS, and removal proceedings were commenced against him. Pet. for Cert. in No. 03–878, at 8. An Immigration Judge found him inadmissible by reason of his prior convictions, §1182(a)(2)(B), and lack of sufficient documentation, §1182(a)(7)(A)(i)(I), and ordered him removed to Cuba. Martinez did not appeal. Pet. for Cert. in No. 03–878, at 8. The INS continued to detain him after expiration of the 90-day removal period, and he remained in custody until he was released pursuant to the District Court order that was affirmed by the Court of Appeals' decision on review here. *Id.*, at 9.

Benitez's parole was revoked in 1993 (shortly after he was imprisoned for his convictions of that year), and the INS immediately initiated removal proceedings against him. In December 1994, an Immigration Judge determined Benitez to be excludable and ordered him deported under §§1182(a)(2)(B) and 1182(a)(7)(A)(i)(I) (1994 ed. and Supp. V).[2] 337 F. 3d, at 1291. Benitez did not seek fur-

---

[2] Before the 1996 enactment of the Illegal Immigration Reform and

ther review. At the completion of his state prison term, the INS took him into custody for removal, and he continued in custody after expiration of the 90-day removal period. *Ibid.* In September 2003, Benitez received notification that he was eligible for parole, contingent on his completion of a drug-abuse treatment program. Letter from Paul D. Clement, Acting Solicitor General, to William K. Suter, Clerk of Court, 1 (Nov. 3, 2004). Benitez completed the program while his case was pending before this Court, and shortly after completion was paroled for a period of one year. *Ibid.* On October 15, 2004, two days after argument in this Court, Benitez was released from custody to sponsoring family members.[3] *Id.*, at 2.

Both aliens filed a petition for a writ of habeas corpus under 28 U. S. C. §2241 to challenge their detention beyond the 90-day removal period. In Martinez's case, the District Court for the District of Oregon accepted that removal was not reasonably foreseeable, and ordered the

---

Immigrant Responsibility Act (IIRIRA), 110 Stat. 3009, aliens ineligible to enter the country were denominated "excludable" and ordered "deported." 8 U. S. C. §§1182(a), 1251(a)(1)(A) (1994 ed.); see *Landon* v. *Plasencia*, 459 U. S. 21, 25–26 (1982). Post-IIRIRA, such aliens are said to be "inadmissible" and held to be "removable." 8 U. S. C. §§1182(a), 1229a(e)(2) (2000 ed.).

[3] Despite Benitez's release on a 1-year parole, this case continues to present a live case or controversy. If Benitez is correct, as his suit contends, that the Government lacks the authority to continue to detain him, he would have to be released, and could not be taken back into custody unless he violated the conditions of release (in which case detention would be authorized by 8 U. S. C. §1253), or his detention became necessary to effectuate his removal (in which case detention would once again be authorized by §1231(a)(6)). His current release, however, is not only limited to one year, but subject to the Secretary's discretionary authority to terminate. See 8 CFR §212.12(h) (2004) (preserving discretion to revoke parole). Thus, Benitez "continue[s] to have a personal stake in the outcome" of his petition. *Lewis* v. *Continental Bank Corp.*, 494 U. S. 472, 477–478 (1990) (internal quotation marks omitted).

INS to release Martinez under conditions that the INS believed appropriate. *Martinez* v. *Smith*, No. CV 02–972–PA (Oct. 30, 2002), App. to Pet. for Cert. in No. 03–878, p. 2a. The Court of Appeals for the Ninth Circuit summarily affirmed, citing its decision in *Xi* v. *INS*, 298 F. 3d 832 (2002). *Martinez* v. *Ashcroft*, No. 03–35053 (Aug. 18, 2003), App. to Pet. for Cert. in No. 03–878, at 1A. In Benitez's case, the District Court for the Northern District of Florida also concluded that removal would not occur in the "foreseeable future," but nonetheless denied the petition. *Benitez* v. *Wallis*, Case No. 5:02cv19 MMP (July 11, 2002), pp. 2, 4, App. in No. 03–7434, pp. 45, 48. The Court of Appeals for the Eleventh Circuit affirmed, agreeing with the dissent in *Xi*. *Benitez* v. *Wallis*, 337 F. 3d 1289 (2003). We granted certiorari in both cases. *Benitez* v. *Wallis*, 540 U. S. 1147 (2004); *Crawford* v. *Martinez*, 540 U. S. 1217 (2004).

II

Title 8 U. S. C. §1231(a)(6) provides, in relevant part, as follows:

> "An alien ordered removed who is inadmissible under section 1182 of this title, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been determined by the [Secretary] to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3)."

By its terms, this provision applies to three categories of aliens: (1) those ordered removed who are inadmissible under §1182, (2) those ordered removed who are removable under §1227(a)(1)(C), 1227(a)(2), or 1227(a)(4), and (3) those ordered removed whom the Secretary determines to be either a risk to the community or a flight risk. In *Zadvydas* v. *Davis*, 533 U. S. 678 (2001), the Court inter-

preted this provision to authorize the Attorney General (now the Secretary) to detain aliens in the second category only as long as "reasonably necessary" to remove them from the country. *Id.*, at 689, 699. The statute's use of "may," the Court said, "suggests discretion," but "not necessarily . . . unlimited discretion. In that respect, the word 'may' is ambiguous." *Id.*, at 697. In light of that perceived ambiguity and the "serious constitutional threat" the Court believed to be posed by indefinite detention of aliens who had been admitted to the country, *id.*, at 699, the Court interpreted the statute to permit only detention that is related to the statute's "basic purpose [of] effectuating an alien's removal," *id.*, at 696–699. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized." *Id.*, at 699. The Court further held that the presumptive period during which the detention of an alien is reasonably necessary to effectuate his removal is six months; after that, the alien is eligible for conditional release if he can demonstrate that there is "no significant likelihood of removal in the reasonably foreseeable future." *Id.*, at 701.

The question presented by these cases, and the question that evoked contradictory answers from the Ninth and Eleventh Circuits, is whether this construction of §1231(a)(6) that we applied to the second category of aliens covered by the statute applies as well to the first—that is, to the category of aliens "ordered removed who are inadmissible under [§]1182." We think the answer must be yes. The operative language of §1231(a)(6), "may be detained beyond the removal period," applies without differentiation to all three categories of aliens that are its subject. To give these same words a different meaning for each category would be to invent a statute rather than interpret one. As the Court in *Zadvydas* recognized, the statute can be construed "literally" to authorize indefinite detention, *id.*, at 689, or (as the Court ultimately held) it

can be read to "suggest [less than] unlimited discretion" to detain, *id.*, at 697. It cannot, however, be interpreted to do both at the same time.

The dissent's belief that *Zadvydas* compels this result rests primarily on that case's statement that "[a]liens who have not yet gained initial admission to this country would present a very different question," 533 U. S., at 682. See *post*, at 3–4, 6 (opinion of THOMAS, J.). This mistakes the reservation of a question with its answer. Neither the opinion of the Court nor the dissent in *Zadvydas* so much as hints that the Court adopted the novel interpretation of §1231(a)(6) proposed by today's dissent. The opinion in that case considered whether §1231(a)(6) permitted the Government to detain removable aliens indefinitely; relying on ambiguities in the statutory text and the canon that statutes should be interpreted to avoid constitutional doubts, the opinion held that it did not. Despite the dissent's repeated claims that §1231(a)(6) could not be given a different reading for inadmissible aliens, see *Zadvydas*, *supra*, at 710, 716–717, the Court *refused to decide* that question—the question we answer today. It is indeed different from the question decided in *Zadvydas*, but because the statutory text provides for no distinction between admitted and nonadmitted aliens, we find that it results in the same answer.[4]

The dissent's contention that our reading of *Zadvydas* is "implausible," *post,* at 2, is hard to reconcile with the fact

---

[4]The dissent is quite wrong in saying, *post,* at 4, that the *Zadvydas* Court's belief that §1231(a)(6) did not apply to all aliens is evidenced by its statement that it did not "consider terrorism or other special circumstances where special arrangements might be made for forms of preventive detention," 533 U. S., at 695. The Court's interpretation of §1231(a)(6) did not affect the detention of alien terrorists for the simple reason that sustained detention of alien terrorists is a "special arrangement" authorized by a different statutory provision, 8 U. S. C. §1537(b)(2)(C). See *Zadvydas*, 533 U. S., at 697.

that it is the identical reading espoused by the *Zadvydas* dissenters, who included the author of today's dissent. Worse still, what the *Zadvydas* dissent *did* find "not . . . plausible" was precisely the reading adopted by today's dissent:

> "[T]he majority's logic might be that inadmissible and removable aliens can be treated differently. Yet it is not a plausible construction of §1231(a)(6) to imply a time limit as to one class but not to another. The text does not admit of this possibility. As a result, it is difficult to see why '[a]liens who have not yet gained initial admission to this country would present a very different question.' " *Zadvydas*, 533 U. S., at 710–711 (KENNEDY, J., dissenting).

The *Zadvydas* dissent later concluded that the release of "Mariel Cubans and other illegal, inadmissible aliens . . . would seem *a necessary consequence of the majority's construction of the statute*." *Id.*, at 717 (emphasis added). Tellingly, the *Zadvydas* majority did not negate either charge.

The Government, joined by the dissent, argues that the statutory purpose and the constitutional concerns that influenced our statutory construction in *Zadvydas* are not present for aliens, such as Martinez and Benitez, who have not been admitted to the United States. Be that as it may, it cannot justify giving the *same* detention provision a different meaning when such aliens are involved. It is not at all unusual to give a statute's ambiguous language a limiting construction called for by one of the statute's applications, even though other of the statute's applications, standing alone, would not support the same limitation. The lowest common denominator, as it were, must govern. See, *e.g., Leocal* v. *Ashcroft*, 543 U. S. ___, ___ (2004) (slip op. at 9–10, n. 8) (explaining that, if a statute has criminal applications, "the rule of lenity applies" to the Court's interpretation of the statute even in immigra-

tion cases "[b]ecause we must interpret the statute consistently, whether we encounter its application in a criminal or noncriminal context"); *United States* v. *Thompson/Center Arms Co.*, 504 U. S. 505, 517–518, and n. 10 (1992) (plurality opinion) (employing the rule of lenity to interpret "a tax statute . . . in a civil setting" because the statute "has criminal applications"); *id.*, at 519 (SCALIA, J., concurring in judgment) (also invoking the rule of lenity). In other words, when deciding which of two plausible statutory constructions to adopt, a court must consider the necessary consequences of its choice. If one of them would raise a multitude of constitutional problems, the other should prevail—whether or not those constitutional problems pertain to the particular litigant before the Court.[5]

The dissent takes issue with this maxim of statutory construction on the ground that it allows litigants to "attack statutes as constitutionally invalid based on constitutional doubts concerning other litigants or factual circumstances" and thereby to effect an "end run around black-letter constitutional doctrine governing facial and as-applied constitutional challenges." *Ante,* at 10. This accusation misconceives—and fundamentally so—the role played by the canon of constitutional avoidance in statutory interpretation. The canon is not a method of adjudicating constitutional questions by other means. See, *e.g.*, *NLRB* v. *Catholic Bishop of Chicago,* 440 U. S. 490, 502 (1979) (refusing to engage in extended analysis in the

---

[5] Contrary to the dissent's contentions, *post*, at 8, our decision in *Salinas* v. *United States*, 522 U. S. 52 (1997), is perfectly consistent with this principle of construction. In *Salinas*, the Court rejected the petitioner's invocation of the avoidance canon because the text of the statute was "unambiguous on the point under consideration." 522 U. S., at 60. For this reason, the Court squarely addressed and rejected any argument that the statute was unconstitutional as applied to the petitioner. *Id.*, at 61 (holding that, under the construction adopted by the Court, "the statute is constitutional as applied in this case").

process of applying the avoidance canon "as we would were we considering the constitutional issue"); see also Vermeule, Saving Constructions, 85 Geo. L. J. 1945, 1960–1961 (1997) (providing examples of cases where the Court construed a statute narrowly to avoid a constitutional question ultimately resolved in favor of the broader reading). Indeed, one of the canon's chief justifications is that it allows courts to *avoid* the decision of constitutional questions. It is a tool for choosing between competing plausible interpretations of a statutory text, resting on the reasonable presumption that Congress did not intend the alternative which raises serious constitutional doubts. See *Rust* v. *Sullivan*, 500 U. S. 173, 191 (1991); *Edward J. DeBartolo Corp.* v. *Florida Gulf Coast Building & Constr. Trades Council,* 485 U. S. 568, 575 (1988). The canon is thus a means of giving effect to congressional intent, not of subverting it. And when a litigant invokes the canon of avoidance, he is not attempting to vindicate the constitutional rights of others, as the dissent believes; he seeks to vindicate his own *statutory* rights. We find little to recommend the novel interpretive approach advocated by the dissent, which would render every statute a chameleon, its meaning subject to change depending on the presence or absence of constitutional concerns in each individual case. Cf. *Harris* v. *United States*, 536 U. S. 545, 556 (2002) (rejecting "a dynamic view of statutory interpretation, under which the text might mean one thing when enacted yet another if the prevailing view of the Constitution later changed").

In support of its contention that we can give §1231(a)(6) a different meaning when it is applied to nonadmitted aliens, the Government relies most prominently upon our decision in *Crowell* v. *Benson*, 285 U. S. 22 (1932). Brief for Petitioners in No. 03–878, p. 29; Brief for Respondent in No. 03–7434, p. 29. That case involved a statutory provision that gave the Deputy Commissioner of the

United States Employees' Compensation Commission " 'full power and authority to hear and determine all questions in respect of' " claims under the Longshoremen's and Harbor Workers' Compensation Act. 285 U. S., at 62. The question presented was whether this provision precluded review of the Deputy Commissioner's determination that the claimant was an employee, and hence covered by the Act. The Court held that, although the statute could be read to bar judicial review altogether, it was also susceptible of a narrower reading that permitted judicial review of the fact of employment, which was an "essential condition precedent to the right to make the claim." *Ibid.* The Court adopted the latter construction in order to avoid serious constitutional questions that it believed would be raised by total preclusion of judicial review. *Ibid.* This holding does *not* produce a statute that bears two different meanings, depending on the presence or absence of a constitutional question. Always, and as applied to all claimants, it permits judicial review of the employment finding. What corresponds to *Crowell* v. *Benson*'s holding that the fact of employment is judicially reviewable is *Zadvydas*'s holding that detention cannot be continued once removal is no longer reasonably foreseeable—and like the one, the other applies in all cases.

The dissent, on the other hand, relies on our recent cases interpreting 28 U. S. C. §1367(d). *Raygor* v. *Regents of Univ. of Minn.,* 534 U. S. 533 (2002), held that this provision does not include, in its tolling of limitations periods, claims against States that have not waived their immunity from suit in federal court, because the statutory language fails to make " 'unmistakably clear,' " as it must in provisions subjecting States to suit, that such States were covered. *Id.*, at 543–546. A subsequent decision, *Jinks* v. *Richland County*, 538 U. S. 456 (2003), held that the tolling provision *does* apply to claims against political subdivisions of States, since the requirement of the unmis-

takably clear statement did not apply to those entities. *Id.*, at 466. This progression of decisions does not remotely establish that §1367(d) has two different meanings, equivalent to the unlimited-detention/limited-detention meanings of §1231(a)(6) urged upon us here. They hold that the single and unchanging disposition of §1367(d) (the tolling of limitations periods) does not apply to claims against States that have not consented to be sued in federal court.[6]

We also reject the Government's argument that, under *Zadvydas*, §1231(a)(6) "authorizes detention until it approaches constitutional limits." Brief for Petitioners in No. 03–878, at 27–28; Brief for Respondent in No. 03–7434, at 27–28. The Government provides no citation to support that description of the case—and none exists. *Zadvydas* did not hold that the statute authorizes detention until it approaches constitutional limits; it held that,

---

[6]The dissent concedes this is so but argues, *post*, at 7–8, that, because the Court reached this conclusion "only after analyzing whether the constitutional doubts in *Raygor* applied to the county defendant" in *Jinks*, *post*, at 8, we must engage in the same quasi-constitutional analysis here before applying the construction adopted in *Zadvydas* to the aliens in these cases. This overlooks a critical distinction between the question before the Court in *Jinks* and the one before us today. In *Jinks*, the county could not claim the aid of *Raygor* itself because *Raygor* held only that §1367(d) did not include suits against nonconsenting *States*; instead, the county argued *by analogy to Raygor* that, absent a clear statement of congressional intent, §1367(d) should be construed not to include suits against political subdivisions of States. And thus the Court in *Jinks* considered not whether *Raygor*'s interpretation of §1367(d) was directly controlling but whether the constitutional concerns that justified the requirement of a clear statement in *Raygor* applied as well in the case of counties. In the present cases, by contrast, the aliens ask simply that the interpretation of §1231(a)(6) announced in *Zadvydas* be applied to them. This question does not compel us to compare analogous constitutional doubts; it simply requires that we determine whether the statute construed by *Zadvydas* permits any distinction to be drawn between aliens who have been admitted and aliens who have not.

since interpreting the statute to authorize indefinite detention (one plausible reading) would approach constitutional limits, the statute should be read (in line with the other plausible reading) to authorize detention only for a period consistent with the purpose of effectuating removal. 533 U. S., at 697–699. If we were, as the Government seems to believe, free to "interpret" statutes as becoming inoperative when they "approach constitutional limits," we would be able to spare ourselves the necessity of ever finding a statute unconstitutional as applied. And the doctrine that statutes should be construed to contain substantive dispositions that do not raise constitutional difficulty would be a thing of the past; no need for such caution, since—*whatever* the substantive dispositions are—they become inoperative when constitutional limits are "approached." That is not the legal world we live in. The canon of constitutional avoidance comes into play only when, after the application of ordinary textual analysis, the statute is found to be susceptible of more than one construction; and the canon functions as *a means* of *choosing between them*. See, *e.g.*, *Almendarez-Torres* v. *United States*, 523 U. S. 224, 237–238 (1998); *United States ex rel. Attorney General* v. *Delaware & Hudson Co.*, 213 U. S. 366, 408 (1909). In *Zadvydas*, it was the statute's text read in light of its purpose, not some implicit statutory command to avoid approaching constitutional limits, which produced the rule that the Secretary may detain aliens only for the period reasonably necessary to bring about their removal. See 533 U. S., at 697–699.

In passing in its briefs, but more intensively at oral argument, the Government sought to justify its continued detention of these aliens on the authority of §1182(d)(5)(A).[7] Even assuming that an alien who is

---

[7] Section 1182(d)(5)(A) reads as follows:

"The [Secretary] may . . . in his discretion parole into the United

subject to a final order of removal is an "alien applying for admission" and therefore eligible for parole under this provision, we find nothing in this text that affirmatively authorizes detention, much less indefinite detention. To the contrary, it provides that, when parole is revoked, "the alien shall . . . be returned to the custody from which he was paroled and thereafter *his case shall continue to be dealt with in the same manner as that of any other applicant for admission*." §1182(d)(5)(A) (emphasis added). The manner in which the case of any other applicant would be "dealt with" beyond the 90-day removal period is prescribed by §1231(a)(6), which we interpreted in *Zadvydas* and have interpreted above.

* * *

The Government fears that the security of our borders will be compromised if it must release into the country inadmissible aliens who cannot be removed. If that is so, Congress can attend to it.[8] But for this Court to sanction

---

States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the [Secretary], have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States."

[8]That Congress has the capacity to do so is demonstrated by its reaction to our decision in *Zadvydas*. Less than four months after the release of our opinion, Congress enacted a statute which expressly authorized continued detention, for a period of six months beyond the removal period (and renewable indefinitely), of any alien (1) whose removal is not reasonably foreseeable and (2) who presents a national security threat or has been involved in terrorist activities. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT ACT), §412(a), 115 Stat. 350 (enacted Oct. 26, 2001) (codified at 8 U. S. C.

indefinite detention in the face of *Zadvydas* would establish within our jurisprudence, beyond the power of Congress to remedy, the dangerous principle that judges can give the same statutory text different meanings in different cases.

Since the Government has suggested no reason why the period of time reasonably necessary to effect removal is longer for an inadmissible alien, the 6-month presumptive detention period we prescribed in *Zadvydas* applies. See 533 U. S., at 699–701. Both Martinez and Benitez were detained well beyond six months after their removal orders became final. The Government having brought forward nothing to indicate that a substantial likelihood of removal subsists despite the passage of six months (indeed, it concedes that it is no longer even involved in repatriation negotiations with Cuba); and the District Court in each case having determined that removal to Cuba is not reasonably foreseeable; the petitions for habeas corpus should have been granted. Accordingly, we affirm the judgment of the Ninth Circuit, reverse the judgment of the Eleventh Circuit, and remand both cases for proceedings consistent with this opinion.

It is so ordered.

---

§1226a(a)(6) (2000 ed., Supp. II)).