

The Supreme Court - June 25, 2020

Today, the Supreme Court of the United States issued the following opinion:

Department of Homeland Security v. Thuraissigiam, No. 19-161. Under the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”), Congress in 1996 crafted a system for processing aliens apprehended at or near the border attempting to enter the country illegally. This includes expedited removal procedures for certain applicants for admission. Applicants indicating an intention to apply for asylum or a fear of persecution, however, can avoid expedited removal if an asylum officer in a screening interview determines that the applicant has a credible fear of persecution. A determination that there is not a credible fear of persecution is reviewed by a supervisor, and can also be appealed to an immigration judge. Habeas review of such a determination, however, is unavailable under the statute, 8 U.S.C. §1252(e)(2), which narrowly circumscribes the circumstances in which habeas review is available. Here, Respondent Vijayakumar Thuraissigiam, a Sri Lankan national, was stopped within 25 yards of the U.S. border after crossing without inspection or an entry document. After his claim to a credible fear of persecution was rejected, Thuraissigiam filed a habeas petition. The District Court dismissed the petition, but the Ninth Circuit reversed, finding that §1252(e)(2) violated the Constitution’s Suspension Clause. Today, the Court reversed, holding that §1252(e)(2) as applied here, violates neither the Suspension Clause nor the Due Process Clause. Thuraissigiam’s Suspension Clause claim failed because it would extend the writ of habeas corpus far beyond its scope when the Constitution was drafted and ratified. And the Due Process Clause was not violated because an alien at the threshold of entry, like Thuraissigiam here, has no entitlement to due process rights other than those afforded by statute. Justice Alito issued the Court’s opinion, joined by Chief Justice Roberts, and Justices Thomas, Gorsuch, and Kavanaugh. Justice Breyer concurred in the judgment, joined by Justice Ginsburg. Justice Sotomayor dissented, joined by Justice Kagan.

The Court’s decision is available [here](#).

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