

FILED _____
RICHARD D. SLETTEN, CLERK
Judgment Ent'd. _____

petitioner

firmly embedded in the legislative and judicial tissues of our body politic as any aspect of our government. ... 347 U.S. 522, 531 (1954).

While this congressional power is subject to constitutional limits, see Zadvydas v. Davis, 121 S. Ct. 2491, 2501 (2001), the court's review of Badio's detention status is nevertheless narrow.

B. Petitioner's Detention

Petitioner contends that he is entitled to 13.5 days of release per week. Zadvydas v. Davis, 121 S. Ct. 2491, 2501 (2001).

¹Although petitioner also claims that his detention violates the United States Immigration and Naturalization Act and the Sixth and Eighth Amendments, the court finds these arguments (continued...)

1. Zadvydas Does

¹(...continued)
unpersuasive, given the paucity of analysis petitioner's brief
provides on these claims.

²Pre-Zadvydas,

²(...continued)
as applied to resident aliens); Bouayad v. Holmes, 74 F. Supp.
2d 471 (E.D.Pa 1999)(holding mandatory detention of alien
unconstitutional); Avramenkov v. INS, 99 F. Supp. 2d 210 (D.
Conn. 2000)(finding that mandatory detention statute did not
violate alien's substantive due process or ej2o9 Tw () i tha13.5 2

Although Zadvydas does not apply to pre-removal-order detentions, petitioner is nevertheless entitled to due process. "It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings." Reno v. Flores, 507 U.S. 292, 307 (1993). This protection applies to aliens that are in the United States legally and illegally.). Th517.5 0

a. Substantive Due Process

The scope of constitutional protections in deportation proceedings is more narrow than in a criminal proceeding. INS v. Lopez-Mendoza, 468 U.S. 1032, 1038-39 (1984). The Salerno standard dictate that § 1226(c) will be upheld if the statute is regulatory in nature and not excessive in its purpose. United States v. Salerno, 481 U.S. at 747. Since § 1226(c) is regulatory in nature, Cardoso v. Renor B. standard

nature. Id. Based on these factors, the Supreme Court concluded that the pretrial

3.19(h)(2)(i)(D), (h)(2)(ii) & 236.1(d)(1). An alien may also appeal any adverse decision to the BIA. See id. at § 236.1(d)(3). Thus, as in Parra,