

CAT relief or withholding of removal may be detained indefinitely if they are dangerous. The authority to detain dangerous aliens indefinitely already exists.

In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the United States Supreme Court held that the detention provisions in the Immigration and Nationality Act, read in light of the Constitution's demands, limit an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States. The Supreme Court found further that once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute—except where special circumstances justify continued detention, such as when it is necessary to protect the public.

In response to that Supreme Court decision, the former Immigration and Naturalization Service promulgated regulations for determining the circumstances under which an alien may be held in custody beyond the statutory removal period. 8 C.F.R. §241.4. These regulations authorize the Government to continue to detain aliens who present foreign policy concerns or national security and terrorism concerns, as well as individuals who are especially dangerous due to a mental condition or personality disorder, even though their removal is not likely in the reasonably foreseeable future.

If we are going to establish a statutory criterion for deciding when indefinite detention is warranted, we need to have a hearing first. An unwise or inadequate criterion will result in people being detained indefinitely who should be released from custody. We need to proceed with caution on this matter.

I urge you to vote against this amendment.

□ 1115

The CHAIRMAN pro tempore (Mr. KOLBE). There is 1 minute remaining on each side. The gentleman from California (Mr. BERMAN), as a member of the Committee on the Judiciary and in opposition, has the right to close.

The Chair recognizes the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Mr. Chairman, I would like to at this time state that the administration, as a result of the amendment to section 3032, has said that they favor the change in my amendment.

Mr. Chairman, I yield the balance of the time to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART).

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I think it is important that we realize that this amendment, while not perfect, it is extremely important that it pass. I am very supportive of the Smith amendments that will be debated shortly. But what this amendment does is it keeps us, the United States of America, in compliance with the convention against torture, allowing us, obviously, not to, in order to be in compliance with the convention against torture, not to deport people to places where they will be tortured. But it also gives discretion to the Secretary of Homeland Security to detain, to keep under detention, terrorists, murderers, rapists, child molesters, and a limited list of other serious criminals.

To comply with the convention against torture, it is important that we pass this amendment.

I thank the gentleman from Indiana (Mr. HOSTETTLER) for his hard work.

Mr. BERMAN. Mr. Chairman, I yield myself the remaining time.

I am going to vote against the Hostettler amendment because, number one, it is a smokescreen by pretending to fix 3006 and 3007, the amendments that will follow this amendment when we come back to the Committee of the Whole; and, secondly, because it has a glaring loophole involving assurances from the torturing country that they will not torture. That means it is still in violation of the Convention Against Torture. Members will decide how they are going to vote on that particular amendment.

The point I want to make most of all is do not fall for the trap which is being set by this amendment that the Smith amendments to 3006 and 3037, that have nothing to do with terrorism and that allow for mass deportations with no due process and which fundamentally change our asylum laws, do not fall for the trap that by pasting the Hostettler amendment you have cured the defects in those provisions. Be sure to vote for the Smith amendments and against those provisions when they come up.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER).

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN THE  
COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 4 offered by Mr. KIRK of Illinois, Amendment No. 5 offered by Mr. SESSIONS of Texas, Amendment No. 8 offered by Mr. CARTER of Texas, Amendment No. 11 offered by Mr. GOODLATTE of Virginia, Amendment No. 12 offered by Mr. GREEN of Wisconsin.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 4 OFFERED BY MR. KIRK

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on Amendment No. 4 offered by the gentleman from Illinois (Mr. KIRK) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 414, noes 0, not voting 18, as follows:

[Roll No. 512]

AYES—414

Abercrombie	DeLay	Johnson, E. B.
Ackerman	DeMint	Johnson, Sam
Aderholt	Deutsch	Jones (NC)
Akin	Diaz-Balart, L.	Jones (OH)
Alexander	Diaz-Balart, M.	Kanjorski
Allen	Dicks	Kaptur
Andrews	Dingell	Keller
Baca	Doggett	Kelly
Bachus	Dooley (CA)	Kennedy (MN)
Baird	Doolittle	Kennedy (RI)
Baker	Doyle	Kildee
Baldwin	Dreier	Kilpatrick
Ballenger	Duncan	Kind
Barrett (SC)	Dunn	King (IA)
Bartlett (MD)	Edwards	King (NY)
Barton (TX)	Ehlers	Kingston
Bass	Emanuel	Kirk
Beauprez	Emerson	Klecza
Becerra	Engel	Kline
Bell	English	Knollenberg
Berkley	Eshoo	Kolbe
Berman	Etheridge	Kucinich
Berry	Evans	LaHood
Biggert	Everett	Lampson
Billirakis	Farr	Langevin
Bishop (GA)	Fattah	Lantos
Bishop (NY)	Feeney	Larsen (WA)
Bishop (UT)	Ferguson	Larson (CT)
Blackburn	Flake	Latham
Blumenauer	Foley	LaTourette
Blunt	Forbes	Leach
Boehner	Ford	Lee
Bonilla	Fossella	Levin
Bonner	Frank (MA)	Lewis (CA)
Bono	Franks (AZ)	Lewis (GA)
Boozman	Frelinghuysen	Lewis (KY)
Boswell	Frost	Linder
Boucher	Gallely	LoBiondo
Boyd	Garrett (NJ)	Lofgren
Bradley (NH)	Gerlach	Lowey
Brady (PA)	Gibbons	Lucas (KY)
Brady (TX)	Gilchrest	Lucas (OK)
Brown (OH)	Gillmor	Lynch
Brown (SC)	Gingrey	Maloney
Brown, Corrine	Gonzalez	Manzullo
Brown-Waite,	Goode	Markey
Ginny	Goodlatte	Marshall
Burgess	Gordon	Matheson
Burns	Granger	McCarthy (NY)
Burr	Graves	McCollum
Burton (IN)	Green (TX)	McCotter
Butterfield	Green (WI)	McCreery
Buyer	Greenwood	McDermott
Calvert	Grijalva	McGovern
Camp	Gutierrez	McHugh
Cannon	Gutknecht	McInnis
Cantor	Hall	McIntyre
Capito	Harman	McKeon
Capps	Harris	McNulty
Capuano	Hart	Meehan
Cardin	Hastings (FL)	Meeks (NY)
Cardoza	Hastings (WA)	Menendez
Carson (IN)	Hayes	Mica
Carson (OK)	Hayworth	Michaud
Carter	Hefley	Millender-
Case	Hensarling	McDonald
Castle	Hergert	Miller (FL)
Chabot	Herseth	Miller (MI)
Chandler	Hill	Miller (NC)
Chocola	Hinchesy	Miller, Gary
Clyburn	Hobson	Miller, George
Coble	Hoefel	Mollohan
Cole	Hoekstra	Moore
Collins	Holden	Moran (KS)
Cooper	Holt	Moran (VA)
Costello	Honda	Murphy
Cox	Hooley (OR)	Murtha
Cramer	Hostettler	Musgrave
Crane	Houghton	Myrick
Crenshaw	Hoyer	Nadler
Crowley	Hulshof	Napolitano
Cubin	Hunter	Neal (MA)
Cummings	Hyde	Nethercutt
Cunningham	Inslee	Neugebauer
Davis (AL)	Isakson	Ney
Davis (CA)	Israel	Northup
Davis (FL)	Issa	Nunes
Davis (IL)	Istook	Nussle
Davis (TN)	Jackson (IL)	Oberstar
Davis, Jo Ann	Jackson-Lee	Obey
Davis, Tom	(TX)	Olver
Deal (GA)	Jefferson	Osborne
DeFazio	Jenkins	Ose
DeGette	John	Otter
Delahunt	Johnson (CT)	Owens
DeLauro	Johnson (IL)	Oxley