

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

**CALCANO-MARTINEZ ET AL. v. IMMIGRATION AND
NATURALIZATION SERVICE****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SECOND CIRCUIT**

No. 00–1011. Argued April 24, 2001– Decided June 25, 2001

Petitioners are lawful permanent United States residents subject to administratively final removal orders because they were convicted of aggravated felonies. Each filed a petition for review in the Second Circuit pursuant to 8 U. S. C. §1252(a)(1) and a habeas corpus petition in the District Court pursuant to 28 U. S. C. §2241 in order to challenge the Board of Immigration Appeals' determination that, as a matter of law, they were ineligible to apply for a discretionary waiver of deportation under former §212(c) of the Immigration and Nationality Act. The Second Circuit dismissed their petitions for lack of jurisdiction, holding that they could nevertheless pursue their claims in a §2241 action in district court.

Held: The Second Circuit lacked jurisdiction to hear the petitions for direct review, but petitioners can proceed with their habeas petitions if they wish to obtain relief. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) expressly precludes courts of appeals from exercising jurisdiction to review a final removal order against an alien removable by reason of a conviction for, *inter alia*, an aggravated felony. 8 U. S. C. §1252(a)(2)(C). This plain language explicitly strips the courts of appeals of the ability to hear petitioners' claims on direct review. However, because Congress has not spoken with sufficient clarity to strip the district courts of jurisdiction to hear habeas petitions raising identical claims, see *INS v. St. Cyr*, *ante*, at ___, petitioners may pursue their claims in a §2241 action. Pp. 2–4.

232 F. 3d 328, affirmed.

Syllabus

STEVENS, J., delivered the opinion of the Court, in which KENNEDY, SOUTER, GINSBURG, and BREYER, JJ., joined. O'CONNOR, J., filed a dissenting opinion. SCALIA, J., filed a dissenting opinion, in which REHNQUIST, C. J., and THOMAS, J., joined.