

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 00-31063
Summary Calendar

VICTOR BERISHAJ,

Appellant,

Petitioner-

versus

ROY SCHREMP; KEVIN D. ROONEY, ACTING COMMISSIONER,
IMMIGRATION AND NATURALIZATION SERVICE,

Appellees.

Respondents-

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 00-CV-985

June 13, 2002

Before EMILIO M. GARZA, STEWART and PARKER, Circuit Judges.

PER CURIAM:*

Victor Berishaj, # A19561068, a citizen of Yugoslavia detained by the Immigration and Naturalization Service (INS) pending execution of his removal order, appeals the district court's

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

denial of his 28 U.S.C. § 2241 habeas corpus petition. Berishaj has moved for appointment of counsel on appeal. We DENY this request as moot.

Berishaj's habeas petition asserted, inter alia, that his continued detention by the INS was unlawful because his deportation was not foreseeable. Because the district court's rejection of Berishaj's habeas petition was based on its application of this court's now-vacated opinion in Zadvydas v. Underdown, 185 F.3d 279, 294, 297 (5th Cir. 1999), it is hereby VACATED. See Zadvydas v. Davis, 533 U.S. 678, 702 (2001). This case is REMANDED to the district court for further proceedings consistent with the Supreme Court's Zadvydas decision. The district court may draw further guidance from our disposition, on remand, in Zadvydas v. Davis, __ F.3d __ (5th Cir. Mar. 12, 2002), 2002 WL 385663 at *5.

VACATED AND REMANDED; MOTION FOR APPOINTMENT OF COUNSEL ON APPEAL DENIED AS MOOT.