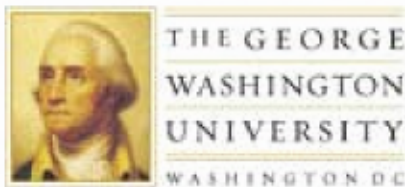


# The Burger Court Opinion Writing Database

*INS v. Rios-Pineda*

471 U.S. 444 (1985)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University in St. Louis  
Forrest Maltzman, George Washington University



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

May 6, 1985

Re: No. 83-2032 - INS v. Rios-Pineda

Dear Byron:

I join.

Regards,

Justice White

Copies to the Conference

97 10-1-1985

3

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

April 26, 1985

No. 83-2032

Immigration and Naturalization  
Service v. Rios-Pineda

Dear Byron,

I agree.

Sincerely,

*Bill*

Justice White

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APR 29 1985

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

To: The Chief Justice  
Justice Brennan  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Rehnquist  
Justice Stevens  
Justice O'Connor

From: Justice White

Circulated: APR 24 1985

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1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 83-2032

IMMIGRATION AND NATURALIZATION SERVICE,  
PETITIONER *v.* BERNARCO RIOS-PINEDA AND  
ESTARNILADA RIOS-PINEDA DE RIOS

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE EIGHTH CIRCUIT

[April —, 1985]

JUSTICE WHITE delivered the opinion of the Court.

Section 244(a)(1) of the Immigration and Nationality Act (Act), 66 Stat. 21, as amended, 8 U. S. C. § 1254(a)(1), allows the Attorney General to suspend the deportation of an alien. To warrant such action, the alien must have been physically present in the United States for a continuous period of at least seven years, be of good moral character, and demonstrate that deportation would result in extreme hardship to the alien, or the alien's "spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence." *Ibid.* Even if these prerequisites are satisfied, it remains in the discretion of the Attorney General to suspend, or refuse to suspend, deportation. *INS v. Wang*, 450 U. S. 139, 144, n. 5 (1981); *Jay v. Boyd*, 351 U. S. 345, 353 (1956). Although Congress did not provide a statutory mechanism for reopening suspension proceedings once suspension has been denied, the Attorney General has promulgated regulations under the Act allowing for such a procedure. 8 CFR § 3.2 (1984). Under the regulations, a motion to reopen will be denied unless reopening is sought on the basis of circumstances which have arisen subsequent to the original hearing. *Ibid.* The Attorney General, authorized by Congress to do so, 8 U. S. C. § 1103, has delegated his authority and discretion to suspend deportation to special

4/24  
Join

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To: The Chief Justice  
Justice Brennan  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Rehnquist  
Justice Stevens  
Justice O'Connor

From: Justice White

Circulated: \_\_\_\_\_

Recirculated: MAY 2 1985

— STYLISTIC CHANGES  
THROUGHOUT; and p. 8

2nd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 83-2032 <sup>D</sup>

IMMIGRATION AND NATURALIZATION SERVICE,  
PETITIONER *v.* BERNARCO RIOS-PINEDA AND  
ESTARNILADA RIOS-PINEDA DE RIOS

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE EIGHTH CIRCUIT

[May —, 1985]

JUSTICE WHITE delivered the opinion of the Court.

Section 244(a)(1) of the Immigration and Nationality Act (Act), 66 Stat. 214, as amended, 8 U. S. C. § 1254(a)(1), allows the Attorney General to suspend the deportation of an alien. To warrant such action, the alien must have been physically present in the United States for a continuous period of at least seven years, be of good moral character, and demonstrate that deportation would result in extreme hardship to the alien, or the alien's "spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence." *Ibid.* Even if these prerequisites are satisfied, it remains in the discretion of the Attorney General to suspend, or refuse to suspend, deportation. *INS v. Jong Ha Wang*, 450 U. S. 139, 144, n. 5 (1981); *Jay v. Boyd*, 351 U. S. 345, 353 (1956). Although Congress did not provide a statutory mechanism for reopening suspension proceedings once suspension has been denied, the Attorney General has promulgated regulations under the Act allowing for such a procedure. 8 CFR § 3.2 (1985). Under the regulations, a motion to reopen will be denied unless reopening is sought on the basis of circumstances which have arisen subsequent to the original hearing. *Ibid.* The Attorney General, authorized by Congress to do so, 8 U. S. C. § 1103, has delegated his authority and discretion to suspend deportation

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BPW  
Please join me

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

May 6, 1985

Re: No. 83-2032-INS v. Rios-Pineda

Dear Byron:

Please join me.

Sincerely,

*J.M.*  
T.M.

Justice White

cc: The Conference

12

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

April 25, 1985

Re: No. 83-2032, INS v. Rios-Pineda

Dear Byron:

Please join me.

Sincerely,

  
\_\_\_\_\_

Justice White

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

April 24, 1985

83-2032 INS v. Rios-Pineda

Dear Byron:

Please add at the end of the next draft of your opinion that I took no part in the consideration or decision of the above case.

Sincerely,



Justice White

lfp/ss

cc: The Conference

84 75 71 70 22



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

April 25, 1985

Re: No. 83-2032 INS v. Rios-Pineda

Dear Byron,

Please join me.

Sincerely,

*WHR*

Justice White &

cc: The Conference

W

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

83-230-21

April 25, 1985

Re: 83-2030 - INS v. Rios-Pineda

Dear Byron:

Please join me.

Respectfully,



Justice White

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CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

Supreme Court of the United States  
Washington, D. C. 20543

April 24, 1985

No. 83-2032 INS v. Rios-Pineda and  
Rios-Pineda de Rios

Dear Byron,

Please join me.

Sincerely,

Justice White

Copies to the Conference