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 Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

RENO, ATTORNEY GENERAL, ET AL. *v.* FLORES ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 91–905. Argued October 13, 1992—Decided March 23, 1993

Respondents are a class of alien juveniles arrested by the Immigration and Naturalization Service (INS) on suspicion of being deportable, and then detained pending deportation hearings pursuant to a regulation, promulgated in 1988 and codified at 8 CFR §242.24, which provides for the release of detained minors only to their parents, close relatives, or legal guardians, except in unusual and compelling circumstances. An immigration judge will review the initial deportability and custody determinations upon request by the juvenile. §242.2(d). Pursuant to a consent decree entered earlier in the litigation, juveniles who are not released must be placed in juvenile care facilities that meet or exceed state licensing requirements for the provision of services to dependent children. Respondents contend that they have a right under the Constitution and immigration laws to be routinely released into the custody of other ``responsible adults.'' The District Court invalidated the regulatory scheme on unspecified due process grounds, ordering that ``responsible adult part[ies]'' be added to the list of persons to whom a juvenile must be released and requiring that a hearing before an immigration judge be held automatically, whether or not the juvenile requests it. The Court of Appeals, en banc, affirmed.

Held:

1. Because this is a facial challenge to the regulation, respondents must establish that no set of circumstances exists under which the regulation would be valid. *United States* v. *Salerno*, 481 U. S. 739, 745. Pp. 7–8.

2. Regulation 242.24, on its face, does not violate the Due Process Clause. Pp. 9–17.

(a) The regulation does not deprive respondents of ``substantive due process.'' The substantive right asserted by respondents is properly described as the right of a child who has no available parent, close relative, or legal guardian, and

for whom the government is responsible, to be placed in the custody of a private custodian rather than of a government-operated or government-selected child-care institution. That novel claim cannot be considered ```so rooted in the traditions and conscience of our people as to be ranked as fundamental.''' *United States* v. *Salerno, supra*, at 751. It is therefore sufficient that the regulation is rationally connected to the government's interest in preserving and promoting the welfare of detained juveniles, and is not punitive since it is not excessive in relation to that valid purpose. Nor does each unaccompanied juvenile have a substantive right to an individualized hearing on whether private placement would be in his ``best interests.'' Governmental custody must meet minimum standards, as the consent decree indicates it does here, but the decision to exceed those standards is a policy judgment, not a constitutional imperative. Any remaining constitutional doubts are eliminated by the fact that almost all respondents are aliens suspected of being deportable, a class that can be detained, and over which Congress has granted the Attorney General broad discretion regarding detention. 8 U. S. C. §1252(a)(1). Pp. 9–13.

(b) Existing INS procedures provide alien juveniles with ``procedural due process.'' Respondents' demand for an individualized custody hearing for each detained alien juvenile is merely the ``substantive due process'' argument recast in procedural terms. Nor are the procedures faulty because they do not require automatic review by an immigration judge of initial deportability and custody determinations. In the context of this facial challenge, providing the *right* to review suffices. It has not been shown that all of the juveniles detained are too young or ignorant to exercise that right; any waiver of a hearing is revocable; and there is no evidence of excessive delay in holding hearings when requested. Pp. 14–17.

3. The regulation does not exceed the scope of the Attorney General's discretion to continue custody over arrested aliens under 8 U. S. C. §1252(a)(1). It rationally pursues a purpose that is lawful for the INS to seek, striking a balance between the INS's concern that the juveniles' welfare will not permit their release to just any adult and the INS's assessment that it has neither the expertise nor the resources to conduct home studies for individualized placements. The list of approved custodians reflects the traditional view that parents and close relatives are competent custodians, and otherwise defers to the States' proficiency in the field of child custody. The regulation is not motivated by administrative convenience; its use of presumptions and generic rules is reasonable; and the period of detention that may result is limited by the pending deportation hearing, which must be concluded with reasonable dispatch to avoid habeas corpus. Pp. 17–22.

RENO *v.* FLORES

Syllabus

942 F. 2d 1352, reversed and remanded.

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