

Syllabus

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SUPREME COURT OF THE UNITED STATES

Syllabus

SIMMONS ET AL. *v.* HIMMELREICHCERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SIXTH CIRCUIT

No. 15–109. Argued March 22, 2016—Decided June 6, 2016

This case began with two suits filed by respondent Walter Himmelreich, a federal prisoner. He first filed suit against the United States, alleging that a severe beating he received from a fellow inmate was the result of negligence by prison officials. The Government treated the suit as a claim under the Federal Tort Claims Act (FTCA), which allows plaintiffs to seek damages from the United States for certain torts committed by federal employees, 28 U. S. C. §1346(b), “[s]ubject to the provisions of chapter 171” of Title 28. But an “Exceptions” section of the FTCA dictates that “the provisions of [Chapter 171] and section 1346(b) of this title . . . shall not apply” to certain categories of claims. The Government moved to dismiss the action on the ground that the claim fell into the exception for “[a]ny claim based upon . . . the exercise or performance . . . [of] a discretionary function,” namely, deciding where to house inmates, §2680(a). While the motion was pending, Himmelreich filed a second suit: a constitutional tort suit against individual Bureau of Prison employees, again alleging that his beating was the result of prison officials’ negligence. Ordinarily, the FTCA would have no bearing on that claim. But after the dismissal of Himmelreich’s first suit, the individual employee defendants argued that Himmelreich’s second suit was foreclosed by the FTCA’s judgment bar provision, according to which a judgment in an FTCA suit forecloses any future suit against individual employees. Agreeing, the District Court granted summary judgment in favor of the individual prison employees. The Sixth Circuit reversed, however, holding that the judgment bar provision did not apply to Himmelreich’s suit.

Held: The judgment bar provision does not apply to the claims dismissed for falling within the “Exceptions” section of the FTCA.

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Pp. 3–10.

(a) The FTCA explicitly excepts from its coverage certain categories of claims, including the one into which Himmelreich’s first suit fell. If, as the Government maintains, Chapter 171’s judgment bar provision applies to claims in that “Exceptions” category, it applied to Himmelreich’s first suit and would preclude any future actions, including his second suit. On Himmelreich’s reading, however, the provision does not apply and he may proceed with his second suit. Pp. 3–5.

(b) Himmelreich is correct. The FTCA’s “Exceptions” section reads: “[T]he provisions of this chapter”—Chapter 171—“shall not apply to . . . [a]ny claim based upon . . . the exercise or performance . . . [of] a discretionary function or duty.” §2680(a). The judgment bar is a provision of Chapter 171. The “Exceptions” section’s plain text thus dictates that the judgment bar does “not apply” to cases that, like Himmelreich’s first suit, are based on the performance of a discretionary function. Because the judgment bar provision does not apply to Himmelreich’s first suit, his second suit—against individual prison employees—should be permitted to go forward. Nothing about the “Exceptions” section or the judgment bar provision gives this Court any reason to disregard the plain text of the statute. P. 5.

(c) *United States v. Smith*, 499 U. S. 160, does not require a different result. There, the Court found that the exclusive remedies provision of Chapter 171—which prevents a plaintiff from suing an employee where the FTCA would allow him to sue the United States instead, see §2679(b)(1)—applied to a claim for injuries sustained at a hospital in Italy, even though that claim fell within the category of “[a]ny claim arising in a foreign country,” one of the “Exceptions” to which “the provisions of [Chapter 171] . . . shall not apply,” §2680(k). *Smith*’s outcome, the Government argues, forecloses a literal reading of the “Exceptions” provision, but *Smith* does not control here. First, *Smith* does not even mention the “Exceptions” section’s “shall not apply” language. Second, the exclusive remedies provision at issue there was enacted as part of the Federal Employee Liability Reform and Tort Compensation Act of 1988, which also contained a mechanism to convert tort suits against Government employees into FTCA suits “subject to the *limitations and exceptions* applicable to those actions.” 499 U. S., at 166 (quoting §2679(d)(4); emphasis in *Smith*). By taking note of those “limitations and exceptions,” the *Smith* Court reasoned, the Liability Reform Act was intended to apply to the “Exceptions” categories of claims. Nothing in the text of the judgment bar provision compels the same result here. Pp. 5–7.

(d) The Government’s remaining counterargument is a parade of horrors that it believes will come to pass if every provision of Chap-

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ter 171 “shall not apply” to the “Exceptions” categories of claims, but it raises few concerns about the judgment bar provision itself. If the Government is right about Chapter 171’s other provisions, the Court may hold so in the appropriate case, see *Smith*, 499 U. S., at 175, but the reading adopted here yields utterly sensible results. Had the District Court in this case issued a judgment dismissing Himmereich’s first suit because, *e.g.*, the prison employees were not negligent, it would make sense that the judgment bar provision would prevent a second suit against the employees. But where an FTCA claim is dismissed because it falls within one of the “Exceptions,” the dismissal signals merely that the United States cannot be held liable for a particular claim; it has no logical bearing on whether an employee can be liable instead. Pp. 7–9.

766 F. 3d 576, affirmed and remanded.

SOTOMAYOR, J., delivered the opinion for a unanimous Court.

Opinion of the Court

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SUPREME COURT OF THE UNITED STATES

No. 15–109

JERMAINE SIMMONS, ET AL., PETITIONERS *v.*
WALTER J. HIMMELREICH

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

[June 6, 2016]

JUSTICE SOTOMAYOR delivered the opinion of the Court.

The Federal Tort Claims Act (FTCA) allows plaintiffs to seek damages from the United States for certain torts committed by federal employees. 28 U. S. C. §§1346(b), 2674. Many of the FTCA’s procedural provisions are contained in a single chapter of the United States Code, Chapter 171. See §§2671–2680. But an “Exceptions” section of the FTCA dictates that “the provisions of [Chapter 171] . . . shall not apply” to certain categories of claims. At issue in this case is whether one of the “provisions of [Chapter 171]”—the so-called judgment bar provision, §2676—might nonetheless apply to one of the excepted claims. We conclude it does not.

I
A

This case began with two suits filed by Walter Himmelreich. In each, Himmelreich alleged that he had been severely beaten by a fellow inmate in federal prison and that the beating was the result of prison officials’ negligence. At the time of the beating, Himmelreich was incarcerated for producing child pornography. His assailant

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had warned prison officials that he would “smash” a pedophile if given the opportunity but was nonetheless released into the general prison population, where he assaulted Himmelreich. App. 46.

Himmelreich filed a first suit against the United States. The Government treated this first suit as a claim under the FTCA and moved to dismiss the action, arguing that the claim fell into one of the “Exceptions” to the FTCA for “[a]ny claim based upon . . . the exercise or performance . . . [of] a discretionary function,” namely, deciding where to house inmates. §2680(a). The District Court granted the Government’s motion to dismiss. (Neither party here challenges the outcome of that first suit.)

But before the District Court dismissed that first suit, Himmelreich filed a second suit, this one a constitutional tort suit against individual Bureau of Prison employees rather than against the United States. Ordinarily, the FTCA would have nothing to say about such claims. But after the dismissal of Himmelreich’s first suit, the individual employee defendants argued that Himmelreich’s second suit was foreclosed by the FTCA’s judgment bar provision, according to which a judgment in an FTCA suit forecloses any future suit against individual employees. See §2676. As relevant here, the District Court agreed and granted summary judgment in favor of the individual prison employees.

Himmelreich appealed that ruling. The Sixth Circuit reversed, holding that the judgment bar provision did not apply to Himmelreich’s suit. *Himmelreich v. Federal Bureau of Prisons et al.*, 766 F. 3d 576 (2014) (*per curiam*).

We granted certiorari to resolve a Circuit split on whether the judgment bar provision applies to suits that, like Himmelreich’s, are dismissed as falling within an “Exceptio[n]” to the FTCA.¹ 577 U. S. ____ (2015).

¹See *Hallock v. Bonner*, 387 F. 3d 147 (CA2 2004), vacated on other

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