

17-1678 HERNANDEZ V. MESA

DECISION BELOW: 885 F.3d 811

LOWER COURT CASE NUMBER: 12-50217

QUESTION PRESENTED:

1. Whether, when plaintiffs plausibly allege that a rogue federal law enforcement officer violated clearly established Fourth and Fifth Amendment rights for which there is no alternative legal remedy, the federal courts can and should recognize a damages claim under *Bivens v. Six Unknown Named Agents of the Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)?

2. If not, whether the Westfall Act violates the Due Process Clause of the Fifth Amendment insofar as it preempts state-law tort suits for damages against rogue federal law enforcement officers acting within the scope of their employment for which there is no alternative legal remedy.

GRANTED LIMITED TO QUESTION 1 PRESENTED BY THE PETITION.

CERT. GRANTED 5/28/2019