

03-339 SOSA v. ALVAREZ-MACHAIN

Ruling below: CA 9, 331 F.3d 604

QUESTIONS PRESENTED:

The Alien Tort Act ("ATA"), 28 U.S.C. § 1350, provides as follows: "The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States. "

The questions presented are:

1. Whether the ATA, is simply a grant of jurisdiction, or whether, in addition to granting jurisdiction, it provides a cause of action upon which aliens may sue for torts in violation of the law of nations or treaties of the United States.
2. If the ATA provides a cause of action, whether the actions it authorizes are limited to suits for violations of jus cogens norms of international law.
3. Whether a detention that lasts less than 24 hours, results in no physical harm to the detainee, and is undertaken by a private individual under instructions from senior United States law enforcement officials, constitutes a tort in violation of the law of nations actionable under the ATA.

03-485 UNITED STATES v. ALVAREZ-MACHAIN

Ruling below: CA 9, 331 F.3d 604

QUESTIONS PRESENTED:

1. Whether federal law enforcement officers, and agents of the Drug Enforcement Administration in particular, have authority to enforce a federal criminal statute that applies to acts perpetrated against a United States official in a foreign country by arresting an indicted criminal suspect on probable cause in a foreign country.
2. Whether an individual arrested in a foreign country may bring an action under the Federal Tort Claims Act (FTCA), 28 U .S.C. 1346(b), 2671 et seq., for false arrest, notwithstanding the FTCA's exclusion of "[a]ny claim arising in a foreign country ," 28 U.S.C. 2680(k), because the arrest was planned in the United States.

CERT. GRANTED: 12/1/03

Consolidated for one hour oral argument.