

03-1423 MUEHLER V. MENA

DECISION BELOW: 226 F3d 1031

LOWER COURT CASE NUMBER: 01-56673

QUESTION PRESENTED:

1. Whether, in light of this Court's repeated holdings that mere police questioning does not constitute a seizure, the Ninth Circuit erred in ruling that law enforcement officers who have lawfully detained an individual pursuant to a valid search warrant engage in an additional, unconstitutional "seizure" if they ask that person questions about criminal activity without probable cause to believe that the person is or has engaged in such activity.
2. Whether, in light of this Court's ruling in *Michigan v. Summers*, 452 U.S. 692 (1981), that a valid search warrant carries with it the implicit authority to detain occupants while the search is conducted, the Ninth Circuit erred in ruling that a two to three hour detention of the occupant of a suspected gang safe-house while officers searched for concealed weapons and other evidence of a gang-related drive-by shooting was unconstitutional because the occupant was initially detained at gun-point and handcuffed for the duration of the search.

CERT. GRANTED 6/14/2004