

## SCOTUS Opinion: Dismissal of Claims Under Federal Tort Claims Act Bars Bivens Claims

26 Feb 2021

In *Brownback v. King*, a student at the University of Michigan was mistaken for a fugitive and tackled and punched by two federal officers. The student sued, alleging tort claims against the federal government under the Federal Tort Claims Act, and separately sued the individual officers under *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971). The district court dismissed the FTCA claims because the officers were entitled to qualified immunity, and alternatively under Rule 12(b)(6) for failure to allege sufficient facts to state such a claim. The district court also dismissed the *Bivens* claims due to the officers' qualified immunity. The student only appealed the *Bivens* dismissal to the Sixth Circuit, which held as a threshold issue that the FTCA's judgment bar, which precludes any suit where a final judgment has been entered on an FTCA claim, did not bar the student's *Bivens* claim. It then ruled that the officers did not have qualified immunity, and reversed the district court.

The Court, in a unanimous opinion by Justice Thomas, reversed, holding that the judgment on the student's FTCA claim was a sufficient judgment on the merits to bar his *Bivens* claim. Even where the dismissal is under Rule 12(b)(6), which would deprive the district court of subject matter jurisdiction and not normally a judgment on the merits, a finding on the merits on an element of fact supporting an FTCA claim would also constitute a judgment on the merits. The noted that the Sixth Circuit did not consider whether the judgment bar applied when the claims were brought in the same lawsuit, and permitted that argument to be raised on remand. Justice Sotomayor, in a concurrence, emphasized her skepticism that the FTCA judgment bar affects other claims brought in the same lawsuit, as occurred here.

A link to the opinion is here: [https://www.supremecourt.gov/opinions/20pdf/19-546\\_7mip.pdf](https://www.supremecourt.gov/opinions/20pdf/19-546_7mip.pdf)

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**TAGGED:** *Bivens v. Six Unknown Fed. Narcotics Agents*, qualified immunity, Federal Tort Claims Act, *Brownback v. King*, *Bivens*, Rule 12(b)(6), judgment bar, subject matter jurisdiction