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# SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED STATES *v.* JAMES DANIEL GOOD REAL  
PROPERTY ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE  
NINTH CIRCUIT

No. 92-1180. Argued October 6, 1993—Decided December 13,  
1993

Four and one-half years after police found drugs and drug paraphernalia in claimant Good's home and he pleaded guilty to promoting a harmful drug in violation of Hawaii law, the United States filed an *in rem* action in the Federal District Court, seeking forfeiture of his house and land, under 21 U. S. C. §881(a)(7), on the ground that the property had been used to commit or facilitate the commission of a federal drug offense. Following an *ex parte* proceeding, a Magistrate Judge issued a warrant authorizing the property's seizure, and the Government seized the property without prior notice to Good or an adversary proceeding. In his claim for the property and answer to the Government's complaint, Good asserted that he was deprived of his property without due process of law and that the action was invalid because it had not been timely commenced. The District Court ordered that the property be forfeited, but the Court of Appeals reversed. It held that the seizure without prior notice and a hearing violated the Due Process Clause, and remanded the case for a determination whether the action, although filed within the five-year period provided by 19 U. S. C. §1621, was untimely because the Government failed to follow the internal notification and reporting requirements of §§1602-1604.

*Held:*

1. Absent exigent circumstances, the Due Process Clause requires the Government to afford notice and a meaningful opportunity to be heard before seizing real property subject to civil forfeiture. Pp. 4-19.

(a) The seizure of Good's property implicates two "explicit textual source[s] of constitutional protection," the Fourth Amendment and the Fifth. *Soldal v. Cook County*, 506 U. S. \_\_\_, \_\_\_. While the Fourth Amendment places limits on the Government's power to seize property for purposes of forfeiture, it does not provide the sole measure of constitutional protection that must be afforded property owners in forfeiture proceedings. *Gerstein v. Pugh*, 420 U. S. 103; *Graham v. Connor*, 490 U. S. 386, distinguished. Where the Government seizes property not to preserve evidence of criminal wrongdoing but to assert ownership and control over the property, its action must also comply with the Due Process Clause. See, e.g., *Calero-Toledo v. Pearson Yacht Leasing Co.*, 416 U. S. 663; *Fuentes v. Shevin*, 407 U. S. 67. Pp. 4-8.

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(b) An exception to the general rule requiring predeprivation notice and hearing is justified only in extraordinary situations. *Id.*, at 82. Using the three-part inquiry set forth in *Mathews v. Eldridge*, 424 U. S. 319—consideration of the private interest affected by the official action; the risk of an erroneous deprivation of that interest through the procedures used, as well as the probable value of additional safeguards; and the Government's interest, including the administrative burden that additional procedural requirements would impose, *id.*, at 335—the seizure of real property for purposes of civil forfeiture does not justify such an exception. Good's right to maintain control over his home, and to be free from governmental interference, is a private interest of historic and continuing importance, cf., e.g., *United States v. Karo*, 468 U. S. 705, 714–715, that weighs heavily in the *Mathews* balance. Moreover, the practice of *ex parte* seizure creates an unacceptable risk of error, since the proceeding affords little or no protection to an innocent owner, who may not be deprived of property under §881(a)(7). Nor does the governmental interest at stake here present a pressing need for prompt action. Because real property cannot abscond, a court's jurisdiction can be preserved without prior seizure simply by posting notice on the property and leaving a copy of the process with the occupant. In addition, the Government's legitimate interests at the inception of a forfeiture proceeding—preventing the property from being sold, destroyed, or used for further illegal activity before the forfeiture judgment—can be secured through measures less intrusive than seizure: a *lis pendens* notice to prevent the property's sale, a restraining order to prevent its destruction, and search and arrest warrants to forestall further illegal activity. Since a claimant is already entitled to a hearing before final judgment, requiring the Government to postpone seizure until after an adversary hearing creates no significant administrative burden, and any harm from the delay is minimal compared to the injury occasioned by erroneous seizure. Pp. 8–16.

(c) No plausible claim of executive urgency, including the Government's reliance on forfeitures as a means of defraying law enforcement expenses, justifies the summary seizure of real property under §881(a)(7). Cf. *Phillips v. Commissioner*, 283 U. S. 589. Pp. 16–18.

2. Courts may not dismiss a forfeiture action filed within the five-year statute of limitations for noncompliance with the timing requirements of §§1602–1604. Congress' failure to specify a consequence for noncompliance implies that it intended the responsible officials administering the Act to have discretion to determine what disciplinary measures are

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appropriate when their subordinates fail to discharge their statutory duties, and the federal courts should not in the ordinary course impose their own coercive sanction, see, e.g., *United States v. Montalvo-Murillo*, 495 U. S. 711, 717-721. Pp. 19-22.

971 F. 2d 1376, affirmed in part, reversed in part, and remanded.

KENNEDY, J., delivered the opinion for a unanimous Court with respect to Parts I and III, and the opinion of the Court with respect to Parts II and IV, in which BLACKMUN, STEVENS, SOUTER, and GINSBURG, JJ., joined. REHNQUIST, C. J., filed an opinion concurring in part and dissenting in part, in which SCALIA, J., joined, and in which O'CONNOR, J., joined as to Parts II and III. O'CONNOR, J., and THOMAS, J., filed opinions concurring in part and dissenting in part.