**08-351 ALVAREZ V. SMITH**

DECISION BELOW:524 F.3d 834

LOWER COURT CASE NUMBER: 07-1599

QUESTIONS PRESENTED:
1. In determining whether the Due Process Clause requires a State or local government to provide a post-seizure probable cause hearing prior to a statutory judicial forfeiture proceeding and, if so, when such a hearing must take place, should district courts apply the "speedy trial" test employed in United States v. $8,850, 461 U.S. 555 (1983) and Barker v. Wingo, 407 U.S. 514 (1972) or the three-part due process analysis set forth in Mathews v. Eldridge, 424 U.S. 319 (1976)?
2. In light of this Court's holding in Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-561 (1992), may a court of appeals order a district court to enter permanent injunctive relief enjoining the application of a State statute based simply upon Plaintiffs' allegations in a complaint, where the parties are not at issue as no answer was filed in the district court and no evidence was ever heard in that court?

CERT. GRANTED 2/23/2009

LIMITED TO QUESTION 1 PRESENTED BY THE PETITION