

08-351 ALVAREZ V. SMITH

DECISION BELOW: 524 F.3d 834

LOWER COURT CASE NUMBER: 07-1599

QUESTION 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?

LIMITED TO QUESTION 1 PRESENTED BY THE PETITION

CERT. GRANTED 2/23/2009