

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Denise Mejia v. Wesley Miller

61 F.4th 663 (9th Cir. 2023) · No. 21-56282 · Decided March 2, 2023

SUMMARY

The Ninth Circuit amended its opinion and denied rehearing in a Bivens action arising from a Bureau of Land Management officer’s alleged use of excessive force during an attempted arrest on public lands. The court held that the claim arose in a new Bivens context and that special factors, including alternative administrative remedies and uncertainty about systemwide consequences, foreclosed implying a damages remedy. It vacated the district court’s denial of summary judgment and remanded with instructions to dismiss the excessive-force claim with prejudice.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Nancy D. Freudenthal; A. Wallace Tashima; Kenneth K. Lee
JURISDICTION	Federal
DECIDED	March 2, 2023
DOCKET	21-56282
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Interlocutory appeal from the denial of qualified immunity on summary judgment in a Bivens excessive-force action against a federal Bureau of Land Management officer.
STANDARD OF REVIEW	Not expressly stated; the court reviewed the denial of summary judgment and antecedent legal questions on interlocutory appeal.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Wesley Miller v. Denise Mejia

TOPICS

- qualified immunity
- civil rights
- constitutional law
- interlocutory appeal
- appellate jurisdiction

PRACTICE AREAS

- civil rights
- constitutional law
- federal courts
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether the Ninth Circuit had jurisdiction on an interlocutory appeal to decide whether a Bivens cause of action existed.
2. Whether Mejia's Fourth Amendment excessive-force claim against a BLM officer presented a new Bivens context.
3. Whether special factors, including alternative administrative remedies and potential systemwide consequences, foreclosed implying a Bivens damages remedy.

HOLDINGS

1. The Ninth Circuit had jurisdiction to decide whether a Bivens cause of action existed because the existence of the cause of action was an antecedent legal question defining the claim and was directly implicated by qualified immunity.
2. Mejia's claim arose in a new Bivens context.
3. No Bivens cause of action existed for Mejia's Fourth Amendment excessive-force claim, because special factors counseled against implying a remedy.

KEY QUOTATIONS

"These three cases—Bivens, Davis, and Carlson— represent the only instances in which the Court has approved of an implied damages remedy under the Constitution itself." (Opinion at 9)

"After Egbert, the two-step analysis "often resolve[s] to a single question: whether there is any reason to think that Congress might be better equipped to create a damages remedy."" (Opinion at 11-12)

"Under Egbert "in all but the most unusual circumstances, prescribing a cause of action is a job for Congress, not the courts."" (Opinion at 14)

FACTUAL BACKGROUND

Denise Mejia and her husband were driving a utility terrain vehicle on public lands managed by the Bureau of Land Management near Joshua Tree National Park when they failed to yield to a park ranger and allegedly fled after a traffic violation. Miller, a senior BLM law-enforcement officer, assisted in locating them after reports of a high-speed chase and an apparent attempt to ram the ranger. As the UTV passed Miller within arm's reach, Miller fired multiple shots, striking Mejia in the hand and grazing her head. The parties disputed much of what occurred immediately before and during the shooting.

PROCEDURAL HISTORY

Mejia sued Miller under Bivens for unreasonable seizure and excessive force arising from Miller's shooting of her during an attempted arrest on public lands. The district court granted Miller summary judgment on the unreasonable-seizure claim but denied summary judgment on the excessive-force claim, and later denied Miller's Rule 59(e) and 60(b)(6) motions. Miller brought an interlocutory appeal. The Ninth Circuit considered whether a Bivens cause of action existed, vacated the denial of summary judgment, and remanded with instructions to enter judgment dismissing the excessive-force claim with prejudice.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the district court's denial of summary judgment and enter summary judgment dismissing the Bivens excessive-force claim with prejudice.

CASES CITED

- Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971)
- Davis v. Passman, 442 U.S. 228 (1979)
- Carlson v. Green, 446 U.S. 14 (1980)
- Ziglar v. Abbasi, 582 U.S. —, 137 S. Ct. 1843 (2017)
- Hernández v. Mesa, 589 U.S. —, 137 S. Ct. 2003 (2017)
- Hernández v. Mesa, 589 U.S. —, 140 S. Ct. 735 (2020)
- Egbert v. Boule, 596 U.S. —, 142 S. Ct. 1793 (2022)
- Boule v. Egbert, 998 F.3d 370, 387 (9th Cir. 2021)
- Rodriguez v. Swartz, 899 F.3d 719, 735 (9th Cir. 2018)
- Hartman v. Moore, 547 U.S. 250, 257 n.5 (2006)
- Wilkie v. Robbins, 551 U.S. 537, 561-62 (2007)