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Hui Vs. Castaneda

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Court : US Supreme Court

Decided On : Apr-28-2010

Appeal No. : 08-1529

Appellant : Hui

Respondent : Castaneda

Judgement :

Hui v. Castaneda - 08-1529 (2010)

SYLLABUS
OCTOBER TERM, 2009
HUI V. CASTANEDA

SUPREME COURT OF THE UNITED STATES

HUI et al. *v* . CASTANEDA, as personal representative of the ESTATE OF CASTANEDA, et al.

certiorari to the united states court of appeals for the ninth circuit

No. 08-1529.Argued March 2, 2010-Decided May 3, 2010

While detained by immigration authorities, Francisco Castenada persistently sought treatment for a bleeding, suppurating lesion. Although a U. S. Public Health Service (PHS) physicians assistant and three outside specialists repeatedly advised that Castaneda urgently needed a biopsy, petitioners-a PHS physician and a commissioned PHS officer-denied the request. After Castaneda was released from custody, tests confirmed that he had metastatic cancer. He then filed this suit, raising medical negligence claims against the United States under the Federal Tort Claims Act (FTCA), 28 U. S. C. 1346, 2671-2680, and constitutional claims against petitioners under *Bivens* v. *Six Unknown Fed. Narcotics Agents* , 403 U. S. 388 , 397. When Castaneda died, respondents, his representative and heir, were substituted as plaintiffs. The District Court denied petitioners motion to dismiss the *Bivens* action, rejecting their claim of absolute immunity under 42 U. S. C. 233(a), which provides: The [FTCA] remedy *against the United States* provided by [28 U. S. C. 1346(b) and 2672] for damage for personal injury, including death, resulting from the performance of medical or related functions by any [PHS] commissioned officer or employee while acting within the scope of his office or employment, *shall be exclusive of any other civil action or proceeding by reason of the same subject-matter against the officer or employee* . (Emphasis added.) The Ninth Circuit affirmed.

Held: The immunity provided by 233(a) precludes *Bivens* actions against individual PHS officers or employees for harms arising out of constitutional violations committed while acting within the scope of their office or employment. Pp. 5-13.

(a) The Courts inquiry begins and ends with 233(a)s text, which plainly precludes a *Bivens* action against petitioners by limiting recovery for harms arising from the conduct at issue to an FTCA action against the United States. The breadth of 233(a)s words exclusive and any supports this reading, as does the provisions inclusive reference to all civil proceedings arising out of the same subject-matter. Because the phrase exclusive of any other civil action is easily broad enough to accommodate both known and unknown causes of action, the Courts reading is not undermined by the fact that 233(a) preceded *Bivens* . The later enacted Westfall Act further supports this understanding of 233(a). In amending the FTCA

to make its remedy against the United States exclusive for most claims against Government employees for their official conduct, the Westfall Act essentially duplicated 233(a)s exclusivity language, 28 U. S. C. 2679(b)(1), but provided an explicit exception for constitutional violations, 2679(b)(2). This shows that Congress did not understand the exclusivity provided by 2679(b)(1)-or the substantially similar 233(a)-to imply such an exception. Pp. 5-7.

(b) Respondents arguments to the contrary do not undermine the Courts conclusion. Pp. 7-12.

(1) Respondents heavy reliance on *Carlson* v. *Green* , 446 U. S. 14 , is misplaced. *Carlson* is inapposite to the issue in this case-whether petitioners are immune from suit for the alleged violations-because the *Carlson* petitioners invoked no official immunity. Instead, the case considered the separate question whether a remedy was available under the Eighth Amendment for alleged violations of the Cruel and Unusual Punishments Clause notwithstanding that a federal remedy was also available under the FTCA. Pp. 7-8.

(2) Contrary to respondents contention, 233(a) does not incorporate a *Bivens* exception through its cross-reference to 1346(b) and that sections cross-reference to the FTCA, which includes the Westfall Act exception for constitutional claims, 2679(b)(2)(A). Because 233(a) refers only to [t]he *remedy* provided by sections 1346(b) and 2672 (emphasis added), only those portions of the FTCA that establish its remedy are incorporated by 233(a)s reference to 1346. Section 2679(b) is not such a provision. Pp. 8-10.

(3) Respondents claim that the Westfall Acts *Bivens* exception, 2679(b)(2)(A), directly preserves a *Bivens* action against PHS officers and employees is belied by the fact that the provision by its terms applies only to the specific immunity set forth in [p]aragraph (1). Moreover, if 233(a) forecloses a *Bivens* action against PHS personnel, respondents reading of 2679(b)(2)(A) would effect an implied repeal of the more specific 233(a). Repeals by implication are not favored and will not be presumed absent a clear and manifest legislative intent to repeal. *Hawaii* v. *Office of Hawaiian Affairs* , 556 U. S. ___, ___. Nothing suggests that Congress intended 2679(b) to repeal 233(a)s more comprehensive immunity. P.

10.

(4) Respondents contention that other features of 233 show that 233(a) does not make the FTCA remedy exclusive of all other actions against PHS personnel is rejected. Neither 233(c) nor 233(f) indicates that an injured party may maintain a *Bivens* action against an individual PHS officer or employee in these circumstances. Pp. 10-12.

546 F. 3d 682, reversed and remanded.

Sotomayor, J., delivered the opinion for a unanimous Court.

Hui v. Castaneda - 08-1529 (2010)

OPINION OF THE COURT
HUI V. CASTANEDA
559 U. S. ____ (2010)

SUPREME COURT OF THE UNITED STATES
NO. 08-1529

ESTHER HUI, et al., PETITIONERS *v.* YANIRA CASTANEDA, as personal representativeof the ESTATE OF FRANCISCOCASTANEDA, et al.

on writ of certiorari to the united states court of appeals for the ninth circuit

[May 3, 2010]

Justice Sotomayor delivered the opinion of the Court.

This case presents the question whether 42 U. S. C. 233(a), as added, 84 Stat. 1870, precludes an action under *Bivens* v. *Six Unknown Fed. Narcotics Agents* , 403 U. S. 388 (1971), against U. S. Public Health Service (PHS) personnel for

constitutional violations arising out of their official duties. When federal employees are sued for damages for harms caused in the course of their employment, the Federal Tort Claims Act (FTCA), 28 U. S. C. 1346, 2671-2680, generally authorizes substitution of the United States as the defendant. Section 233(a) makes the FTCA remedy against the United States exclusive of any other civil action or proceeding for any personal injury caused by a PHS officer or employee performing a medical or related function while acting within the scope of his office or employment. Based on the plain language of 233(a), we conclude that PHS officers and employees are not personally subject to *Bivens* actions for harms arising out of such conduct.

I

Francisco Castaneda was detained by U. S. Immigration and Customs Enforcement (ICE) at the San Diego Correctional Facility (SDCF) beginning in March 2006. According to the complaint later filed in the District Court, when Castaneda arrived at SDCF he had on his penis an irregular, raised lesion that measured roughly two centimeters square.[Footnote 1] Castaneda promptly brought his condition to the attention of medical personnel working for the Division of Immigration Health Services, reporting that the lesion was growing in size and becoming more painful and that it frequently bled and emitted a discharge. Petitioner Dr. Esther Hui, a civilian PHS employee, was the physician responsible for Castanedas medical care during his detention at SDCF. Petitioner Commander Stephen Gonsalves, a commissioned PHS officer, was a Health Services Administrator at SDCF during the relevant period.

Between March 2006 and January 2007, Castaneda persistently sought treatment for his condition. As his disease progressed, the lesion became increasingly painful and interfered with his urination, defecation, and sleep. In December 2006, Castaneda additionally reported a lump in his groin. A PHS physicians assistant and three outside specialists repeatedly advised that Castaneda needed a biopsy to ascertain whether he had cancer. Petitioners denied requests for a biopsy and other recommended procedures as elective. App. 244, 249-251. Instead, Castaneda was treated with ibuprofen and antibiotics and was given an additional

ration of boxer shorts.

After a fourth specialist recommended a biopsy in January 2007, the procedure was finally authorized. Instead of providing treatment, however, ICE released Castaneda from custody on February 5. A week later, biopsy results confirmed that Castaneda was suffering from penile cancer. The next day, Castaneda had his penis amputated, and he began chemotherapy after tests confirmed that the cancer had metastasized to his groin. The treatment was unsuccessful, and Castaneda died in February 2008.

Three months before his death, Castaneda filed suit against petitioners in the United States District Court for the Central District of California. As relevant, Castaneda raised medical negligence claims against the United States under the FTCA and *Bivens* claims against petitioners for deliberate indifference to his serious medical needs in violation of his Fifth, Eighth, and Fourteenth Amendment rights.[Footnote 2] After Castanedas death, respondents-Castanedas sister, Yanira Castaneda, and his daughter, Vanessa Castaneda (by and through her mother, Lucia Pelayo)-amended the complaint to substitute themselves as plaintiffs. Yanira and Vanessa Castaneda are respectively the representative of and heir to Castanedas estate.

Petitioners moved to dismiss the claims against them, contending that 233(a) gives them absolute immunity from *Bivens* actions by making a suit against the United States under the FTCA the exclusive remedy for harms caused by PHS personnel in the course of their medical or related duties. The District Court denied the motion, concluding that 233(a)s text and history evidence a congressional intent to preserve *Bivens* actions. *Castaneda* v. *United States* , 538 F. Supp. 2d 1279, 1288-1295 (2008). Petitioners filed an interlocutory appeal.[Footnote 3]

The Court of Appeals for the Ninth Circuit affirmed the District Courts judgment that 233(a) does not preclude respondents *Bivens* claims. *Castaneda* v. *United States* , 546 F. 3d 682 (2008).[Footnote 4] The court cited *Carlson* v. *Green* , 446 U. S. 14 (1980), for the proposition that a *Bivens* remedy is unavailable only

when an alternative remedy is both expressly declared to be a substitute and can be viewed as equally effective, or when special factors militate against direct recovery. Looking to the statutes text and history, the court noted that 233(a) does not mention the Constitution or recovery thereunder and found it significant that 233 was enacted prior to this Courts decision in *Bivens* . Drawing further support for its view from the statutes legislative history and from subsequent congressional enactments, the Court of Appeals concluded that 233(a) does not expressly make the remedy under the FTCA a substitute for relief under *Bivens* .

For essentially the reasons given in *Carlson* , 446 U. S., at 20-23, the Court of Appeals also determined that the FTCA remedy is not equally effective as a *Bivens* remedy. Unlike the remedy under the FTCA, the court reasoned, a *Bivens* remedy is awarded against individual defendants and may include punitive damages. Additionally, *Bivens* cases may be tried before a jury, and liability is governed by uniform federal rules rather than the law of the State in which the violation occurred. After further concluding that no special factors militate against finding a remedy available in these circumstances, the court held that respondents *Bivens* action could proceed.

As the Ninth Circuit recognized, its holding conflicts with the Second Circuits decision in *Cuoco* v. *Moritsugu* , 222 F. 3d 99 (2000), which construed 233(a) to foreclose *Bivens* actions against PHS personnel. We granted certiorari to resolve this conflict. 557 U. S. ___ (2009).

II

A

Our inquiry in this case begins and ends with the text of 233(a). See *Harris Trust and Sav. Bank* v. *Salomon Smith Barney Inc.* , 530 U. S. 238 , 254 (2000). The statute provides in pertinent part that:

[t]he remedy *against the United States* provided by sections 1346(b) and 2672 of title 28 for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the

conduct of clinical studies or investigation, by any commissioned officer or employee of the Public Health Service while acting within the scope of his office or employment, *shall be exclusive of any other civil action or proceeding by reason of the same subject-matter against the officer or employee* (or his estate) whose act or omission gave rise to the claim. 233(a) (emphasis added).

Section 233(a) grants absolute immunity to PHS officers and employees for actions arising out of the performance of medical or related functions within the scope of their employment by barring all actions against them for such conduct. By its terms, 233(a) limits recovery for such conduct to suits against the United States. The breadth of the words exclusive and any supports this reading, as does the provisions inclusive reference to all civil proceedings arising out of the same subject-matter. We have previously cited 233(a) to support the contention that Congress follows the practice of explicitly stating when it means to make FTCA an exclusive remedy. *Carlson* , 446 U. S., at 20. The meaning of 233(a) has become no less explicit since we last made that observation.

Our reading of 233(a)s text is not undermined by the fact that the provision preceded our decision in *Bivens* . Contrary to the view of the Court of Appeals, that a *Bivens* remedy had not yet been recognized when 233(a) was enacted does not support the conclusion that Congress, in making the remedy provided by the FTCA exclusive of any other civil action, did not mean what it said. Language that broad easily accommodates both known and unknown causes of action.

The later enacted Federal Employees Liability Reform and Tort Compensation Act of 1988 (Westfall Act), 102 Stat. 4563, further supports this understanding of 233(a). The Westfall Act amended the FTCA to make its remedy against the United States the exclusive remedy for most claims against Government employees arising out of their official conduct.[Footnote 5] In providing this official immunity, Congress used essentially the same language as it did in 233(a), stating that the remedy against the United States is exclusive of any other civil action or proceeding, 2679(b)(1). Notably, Congress also provided an exception for constitutional violations. Pursuant to 2679(b)(2), the immunity granted by 2679(b)(1) does not extend or apply to a civil action against an employee of the

Government brought for a violation of the Constitution of the United States. 2679(b)(2)(A). The Westfall Acts explicit exception for *Bivens* claims is powerful evidence that Congress did not understand the exclusivity provided by 2679(b)(1)- or the substantially similar 233(a)-to imply such an exception. Given Congress awareness of pre-existing immunity provisions like 233 when it enacted the Westfall Act, see *United States* v. *Smith* , 499 U. S. 160 , 173 (1991), it is telling that Congress declined to enact a similar exception to the immunity provided by 233(a).

B

In advocating a contrary reading of 233(a), respondents rely heavily on our opinion in *Carlson* , as did the Court of Appeals. *Carlson* , however, is inapposite to the issue in this case. There are two separate inquiries involved in determining whether a *Bivens* action may proceed against a federal agent: whether the agent is amenable to suit, and whether a damages remedy is available for a particular constitutional violation absent authorization by Congress. See *United States* v. *Stanley* , 483 U. S. 669 , 684 (1987) ([T]he availability of a damages action under the Constitution for particular *injuries* is a question logically distinct from immunity to such an action on the part of particular *defendants*). Even in circumstances in which a *Bivens* remedy is generally available, an action under *Bivens* will be defeated if the defendant is immune from suit. See, *e.g.,* 403 U. S., at 397-398 (remanding for determination of respondents immunity after implying a cause of action under the Fourth Amendment).

Because petitioners in *Carlson* invoked no official immunity, the Court did not address that question. Instead, it considered whether a remedy was available under the Eighth Amendment for alleged violations of the Cruel and Unusual Punishments Clause notwithstanding that a federal remedy was also available under the FTCA. 446 U. S., at 16-17. Many of our subsequent *Bivens* decisions likewise addressed only the existence of an implied cause of action for an alleged constitutional violation. See, *e.g., Wilkie* v. *Robbins* , 551 U. S. 537 , 549 (2007) (declining to devise a new *Bivens* damages action for retaliating against the exercise of ownership rights); *Bush* v. *Lucas* , 462 U. S. 367 , 368 (1983)

(declining to authorize a new nonstatutory damages remedy for federal employees whose First Amendment rights are violated by their superiors).

This case presents the separate question whether petitioners are immune from suit for the alleged violations. To determine a defendants amenability to suit, we consider whether he or she may claim the benefits of official immunity for the alleged misconduct. Because petitioners invoke only the immunity provided by 233(a), the question in this case is answered solely by reference to whether that provision gives petitioners the immunity they claim.[Footnote 6]

As noted, the text of 233(a) plainly indicates that it precludes a *Bivens* action against petitioners for the harm alleged in this case. Respondents offer three arguments in support of their claim that it does not. None persuades us that 233(a) means something other than what it says.

Respondents first contend that 233(a) incorporates the entirety of the FTCA, as amended by the Westfall Act, through its reference to 1346(b).[Footnote 7] Section 1346(b) in turn refers to the provisions of chapter 171, which constitute the FTCA, including the Westfall Acts exception for claims brought for a violation of the Constitution of the United States, 2679(b)(2)(A). Through this series of cross-references, respondents would read that exception for *Bivens* actions into 233(a).

Section 233(a) is not susceptible of this reading. As petitioners observe, that provision refers only to [t]he *remedy* against the United States provided by sections 1346(b) and 2672. 233(a) (emphasis added). Thus, only those portions of chapter 171 that establish the FTCA remedy are incorporated by 233(a)s reference to 1346. Section 2679(b) is not such a provision. Section 233(a)s reference to 2672[Footnote 8]-which is codified in chapter 171-also belies respondents theory. If 233(a)s reference to 1346(b) served to incorporate all the provisions of chapter 171, the separate reference to 2672 would be superfluous.

Respondents next argue that the Westfall Acts *Bivens* exception, 2679(b)(2)(A), directly preserves a *Bivens* action against PHS officers and employees. That 2679(b)(2)(A) by its terms applies only to the specific immunity set forth in

[p]aragraph (1) belies respondents claim. Moreover, if 233(a) forecloses a *Bivens* action against PHS personnel, respondents reading of 2679(b)(2)(A) would effect an implied repeal of that more specific provision. Although we noted in *Smith* that 2679(b) applies to all federal employees, see 499 U. S., at 173, we had no occasion to consider whether the *Bivens* exception in 2679(b)(2)(A) impliedly repealed pre-existing immunity provisions to the extent of any inconsistency. As we have emphasized, repeals by implication are not favored and will not be presumed unless the intention of the legislature to repeal is clear and manifest. *Hawaii* v. *Office of Hawaiian Affairs* , 556 U. S. ___, ___-___ (2009) (slip op., at 10-11) (internal quotation marks and alteration omitted). Respondents have pointed to nothing in 2679(b)s text or drafting history that suggests that Congress intended to repeal the more comprehensive immunity provided by 233(a).

Finally, respondents contend that other features of 233 show that subsection (a) does not make the remedy under the FTCA exclusive of all other actions against PHS personnel. Respondents first note 233s lack of a procedure for scope certification in federal-court actions. Under the FTCA, certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose transforms an action against an individual federal employee into one against the United States. 2679(d)(1). Because 233 does not provide a similar mechanism for scope certification in federal-court actions,[Footnote 9] respondents contend that PHS defendants seeking to invoke the immunity provided by 233(a) must rely on the FTCAs scope certification procedure, set forth in 2679(d). Section 2679(d), respondents note, is in turn subject to the limitations and exceptions applicable to actions under the FTCA-including the exception for *Bivens* actions provided by 2679(b)(2). See 2679(d)(4).

We agree with petitioners that there is no reason to think that scope certification by the Attorney General is a prerequisite to immunity under 233(a). To be sure, that immunity is contingent upon the alleged misconduct having occurred in the course of the PHS defendants duties, but a defendant may make that proof pursuant to the ordinary rules of evidence and procedure. As petitioners observe, proof of

scope is in most 233(a) cases established by a declaration affirming that the defendant was a PHS official during the relevant time period. See Reply Brief for Petitioner Hui 6-7, and n. 1. Thus, while scope certification may provide a convenient mechanism for establishing that the alleged misconduct occurred within the scope of the employees duties, the procedure authorized by 2679(d) is not necessary to effect substitution of the United States. Finally, that the FTCAs scope certification procedure was enacted almost two decades after 233(a) confirms that Congress did not intend to make that procedure the exclusive means for PHS personnel to invoke the official immunity provided by 233(a).

Respondents argument based on 233(f) is similarly unavailing. That subsection authorizes the Secretary of Health and Human Services to hold harmless or provide liability insurance for a PHS officer or employee for personal injuries caused by conduct occurring within the scope of his office or employment if such employee is assigned to a foreign country and if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b). Noting that the FTCA precludes recovery against the United States for [a]ny claim arising in a foreign country, 2680(k), respondents urge that 233(f)s authorization of insurance or indemnification in those circumstances anticipates that an injured party without a remedy under the FTCA may sue a PHS official directly.[Footnote 10] Accordingly, respondents contend, 233(a) cannot be read to make the remedy under the FTCA truly exclusive. Even if that reading of 233(f) were correct, it would not benefit respondents because an FTCA remedy is unquestionably available for the misconduct alleged in this case.

For the foregoing reasons, respondents arguments do not undermine our conclusion that the immunity provided by 233(a) precludes *Bivens* actions against individual PHS officers or employees for harms arising out of conduct described in that section.

***

In construing 233(a) in petitioners favor, we are mindful of the confines of our judicial role. Respondents *amici* caution that providing special immunity for PHS

personnel is contrary to the public interest.[Footnote 11] Respondents likewise contend that allowing *Bivens* claims against PHS personnel is necessary to ensure an adequate standard of care in federal detention facilities, and they further urge that permitting such actions would not endanger PHS institutional interests as it would simply place PHS personnel in the same position as other federal employees who perform similar functions. See Brief for Respondents 52-55, 60-61. We are required, however, to read the statute according to its text. Because 233(a) plainly precludes a *Bivens* action against petitioners for the harms alleged in this case, we reverse the judgment of the Ninth Circuit and remand the case for further proceedings consistent with this opinion.

It is so ordered.

Footnote 1

Because this case comes to us on petitioners motion to dismiss, we assume the truth of respondents factual allegations. See *Fitzgerald* v. *Barnstable School Comm.* , 555 U. S. ___, ___ (2009) (slip op., at 1).

Footnote 2

In *Bivens* v. *Six Unknown Fed. Narcotics Agents* , 403 U. S. 388 , 397 (1971), this Court recognized an implied cause of action for damages against federal officers alleged to have violated the petitioners Fourth Amendment rights. We subsequently found such a remedy available for violations of an individuals rights under the Cruel and Unusual Punishments Clause of the Eighth Amendment and the Due Process Clause. See *Carlson* v. *Green* , 446 U. S. 14 , 17-19 (1980); *Davis* v. *Passman* , 442 U. S. 228 , 230 (1979).

Footnote 3

Although it does not bear directly on the question presented in this case, we note that while petitioners appeal was pending the Government filed a formal notice admitting liability with respect to respondents claims for medical negligence under the FTCA. App. 329.

Footnote 4

The court concluded that it had jurisdiction over the interlocutory appeal because district court orders denying absolute immunity constitute final decisions for purposes of 28 U. S. C. 1291. See 546 F. 3d, at 687 (citing *Mitchell* v. *Forsyth* , 472 U. S. 511 , 524-527 (1985)); see also *Osborn* v. *Haley* , 549 U. S. 225 , 238-239 (2007).

Footnote 5

Prior to the Westfall Act amendments, the FTCA authorized substitution of the United States as a defendant in suits against federal employees for harms arising out of conduct undertaken in the scope of their employment, see 28 U. S. C. 1346(b) (1982 ed.), but it made that remedy exclusive only for harms resulting from a federal employees operation of a motor vehicle, 2679(b).

Footnote 6

We express no opinion as to whether a *Bivens* remedy is otherwise available in these circumstances, as the question is not presented in this case.

Footnote 7

Section 1346(b) provides in pertinent part that, [s]ubject to the provisions of chapter 171 of [Title 28], the district courts shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment.

Footnote 8

Section 2672 authorizes agency heads and their designees to consider, ascertain, adjust, determine, compromise, and settle any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

Footnote 9

Section 233(c) includes such a provision for state-court actions, authorizing removal to federal court [u]pon a certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suit arose, but unlike 2679(d) it does not prescribe a particular mechanism for substituting the United States in federal-court actions.

Footnote 10

As respondents note, the Westfall Act substantially limited the effect of 233(f). See Brief for Respondents 32 (citing *United States* v. *Smith* , 499 U. S. 160 , 166-167 (1991)). But because the Act does not weaken any inference about the meaning of 233(a) that might be drawn from 233(f), the changes effected by the Act are not relevant to the instant inquiry.

Footnote 11

See Brief for American Civil Liberties Union as *Amicus Curiae* 25-28; Brief for National Experts on Health Services for Detained Persons as *Amici Curiae* 17-24; Brief for National Immigrant Justice Center as *Amicus Curiae* 20-21; Brief for Rep. John Conyers, Jr., et al. as *Amici Curiae* 25-31.

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