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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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CORRECTIONAL SERVICES CORP. *v.* MALESKO

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

No. 00–860. Argued October 1, 2001—Decided November 27, 2001

Petitioner Correctional Services Corporation (CSC), under contract with the federal Bureau of Prisons (BOP), operates Le Marquis Community Correctional Center (Le Marquis), a facility that houses federal inmates. After respondent, a federal inmate afflicted with a heart condition limiting his ability to climb stairs, was assigned to a bedroom on Le Marquis' fifth floor, CSC instituted a policy requiring inmates residing below the sixth floor to use the stairs rather than the elevator. Respondent was exempted from this policy. But when a CSC employee forbade respondent to use the elevator to reach his bedroom, he climbed the stairs, suffered a heart attack, and fell. Subsequently, respondent filed this damages action against CSC and individual defendants, alleging, *inter alia*, that they were negligent in refusing him the use of the elevator. The District Court treated the complaint as raising claims under *Bivens* v. *Six Unknown Fed. Narcotics Agents,* 403 U. S. 388, in which this Court recognized for the first time an implied private action for damages against federal officers alleged to have violated a citizen's constitutional rights. In dismissing the suit, the District Court relied on *FDIC* v. *Meyer,* 510 U. S. 471, reasoning, *inter alia,* that a *Bivens* action may only be maintained against an individual, not a corporate entity. The Second Circuit reversed in pertinent part and remanded, remarking, with respect to CSC, that *Meyer* expressly declined to expand the category of defendants against whom *Bivens*-type actions may be brought to include not only federal agents, but also federal agencies. But the court reasoned that such private entities should be held liable under *Bivens* to accomplish the important *Bivens* goal of providing a remedy for constitutional violations.

Held: Bivens' limited holding may not be extended to confer a right of

action for damages against private entities acting under color of federal law. The Court's authority to imply a new constitutional tort, not expressly authorized by statute, is anchored in its general jurisdiction to decide all cases arising under federal law. The Court first exercised this authority in *Bivens*. From a discussion of that and subsequent cases, it is clear that respondent's claim is fundamentally different from anything the Court has heretofore recognized. In 30 years of *Bivens* jurisprudence, the Court has extended its holding only twice, to provide an otherwise nonexistent cause of action against *individual officers* alleged to have acted unconstitutionally, *e.g., Carlson* v. *Green,* 446 U. S. 14, and to provide a cause of action for a plaintiff who lacked *any alternative remedy* for harms caused by an individual officer's unconstitutional conduct, *e.g., Davis* v. *Passman,* 442 U. S. 228, 245. Where such circumstances are not present, the Court has consistently rejected invitations to extend *Bivens*, often for reasons that foreclose its extension here. See, *e.g., Bush* v. *Lucas,* 462 U. S. 367. *Bivens'* purpose is to deter individual federal officers, not the agency, from committing constitutional violations. *Meyer* made clear, *inter alia,* that the threat of suit against an individual's employer was not the kind of deterrence contemplated by *Bivens*. 510 U. S., at 485. This case is, in every meaningful sense, the same. For if a corporate defendant is available for suit, claimants will focus their collection efforts on it, and not the individual directly responsible for the alleged injury. On *Meyer*'s logic, inferring a constitutional tort remedy against a private entity like CSC is therefore foreclosed. Respondent's claim that requiring private corporations acting under color of federal law to pay for the constitutional harms they commit is the best way to discourage future harms has no relevance to *Bivens*, which is concerned solely with deterring individual officers' unconstitutional acts. There is no reason here to consider extending *Bivens* beyond its core premise. To begin with, *no federal prisoners* enjoy respondent's contemplated remedy. If such a prisoner in a BOP facility alleges a constitutional deprivation, his only remedy lies against the offending individual officer. Whether it makes sense to impose asymmetrical liability costs on private prison facilities alone is a question for Congress to decide. Nor is this a situation in which claimants in respondent's shoes lack effective remedies. It was conceded at oral argument that alternative remedies are at least as great, and in many respects greater, than anything that could be had under *Bivens*. For example, federal prisoners in private facilities enjoy a parallel tort remedy that is unavailable to prisoners housed in government facilities. Inmates in respondent's position also have full access to remedial mechanisms established by the BOP, including suits in federal court for injunctive relief—long recognized as the proper means for

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preventing entities from acting unconstitutionally—and grievances filed through the BOP's Administrative Remedy Program. Pp. 4–12.

229 F. 3d 374, reversed.

REHNQUIST, C. J., delivered the opinion of the Court, in which O'CONNOR, SCALIA, KENNEDY, and THOMAS, JJ., joined. SCALIA, J., filed a concurring opinion, in which THOMAS, J., joined. STEVENS, J., filed a dissenting opinion, in which SOUTER, GINSBURG, and BREYER, JJ., joined.