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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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CITY OF RANCHO PALOS VERDES ET AL. *v.* ABRAMS

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

No. 03–1601. Argued January 19, 2005—Decided March 22, 2005

After petitioner City denied respondent Abrams permission to construct a radio tower on his property, he filed this action seeking, *inter alia*, injunctive relief under §332(c)(7)(B)(v) of the Communications Act of 1934, 47 U. S. C. §332(c)(7), as added by the Telecommunications Act of 1996 (TCA), and money damages under 42 U. S. C. §1983. Section 332(c)(7) imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of wireless communications facilities, and provides, in §332(c)(7)(B)(v), that anyone "adversely affected by any final action . . . by [such] a . . . government . . . may . . . commence an action in any court of competent jurisdiction." The District Court held that §332(c)(7)(B)(v) provided the exclusive remedy for the City's actions and, accordingly, ordered the City to grant respondent's application for a conditional-use permit, but refused respondent's request for damages under §1983. The Ninth Circuit reversed on the latter point.

Held: An individual may not enforce §332(c)(7)'s limitations on local zoning authority through a §1983 action. The TCA—by providing a judicial remedy different from §1983 in §332(c)(7) itself—precluded resort to §1983. Pp. 5–13.

(a) Even after a plaintiff demonstrates that a federal statute creates an individually enforceable right in the class of beneficiaries to which he belongs, see *Gonzaga Univ.* v. *Doe*, 536 U. S. 273, 285, the defendant may rebut the presumption that the right is enforceable under §1983 by, *inter alia*, showing a contrary congressional intent from the statute's creation of a "comprehensive remedial scheme that is inconsistent with individual enforcement under §1983," *Blessing* v. *Freestone*, 520 U. S. 329, 341. The Court's cases demonstrate that the

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provision of an express, private means of redress in the statute itself is ordinarily an indication that Congress did not intend to leave open a remedy under §1983. Pp. 5–8.

(b) Congress could not have meant the judicial remedy expressly authorized by §332(c)(7) to co-exist with an alternative remedy available under §1983, since enforcement of the former through the latter would distort the scheme of expedited judicial review and limited remedies created by §332(c)(7)(B)(v). The TCA adds no remedies to those available under §1983, and limits relief in ways that §1983 does not. In contrast to a §1983 action, TCA judicial review must be sought within 30 days after the governmental entity has taken "final action," and, once the action is filed, the court must "hear and decide" it "on an expedited basis." §332(c)(7)(B)(v). Moreover, unlike §1983 remedies, TCA remedies perhaps do not include compensatory damages, and certainly do not include attorney's fees and costs. The Court rejects Abrams's arguments for borrowing §332(c)(7)(B)(v)'s 30-day limitations period, rather than applying the longer statute of limitations authorized under 42 U. S. C. §1988 or 28 U. S. C. §1658, in §1983 actions asserting §332(c)(7)(B) violations. Pp. 8–12.

(c) In concluding that Congress intended to permit plaintiffs to proceed under §1983, the Ninth Circuit misinterpreted the TCA's so-called "saving clause," which provides: "This Act . . . shall not be construed to . . . impair . . . Federal . . . law." Construing §332(c)(7), as this Court does, to create rights that may be enforced only through the statute's express remedy, does not "impair" §1983 because it leaves §1983's pre-TCA operation entirely unaffected. Pp. 12–13.

354 F. 3d 1094, reversed and remanded.

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