

Syllabus

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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DUSENBERY v. UNITED STATES**CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SIXTH CIRCUIT**

No. 00–6567. Argued October 29, 2001—Decided January 8, 2002

While petitioner was in prison on federal drug charges, the Federal Bureau of Investigation (FBI) began an administrative process to forfeit cash that officers seized when they executed a search warrant for the residence where petitioner was arrested. The statute in effect at the time required the agency, *inter alia*, to send written notice of the seizure and applicable forfeiture procedures to each party who appeared to have an interest in the property. 19 U. S. C. §1607(a). The FBI sent such notice by certified mail addressed to petitioner care of the federal correctional institution (FCI) where he was incarcerated; to the address of the residence where he was arrested; and to an address in the town where his mother lived. It received no response in the time allotted and turned over the cash to the United States Marshals Service. Subsequently, petitioner moved in the District Court under Federal Rule of Criminal Procedure 41(e) for return of all the property and funds seized in his criminal case. The court denied the motion. The Sixth Circuit vacated and remanded, holding that the motion should have been construed as a civil complaint seeking equitable relief for a due process challenge to the adequacy of the notice. On remand, the District Court presided over a telephone deposition of an FCI officer who stated that he signed the certified mail receipt for the FBI's notice to petitioner and testified about the FCI's procedures for accepting, logging, and delivering certified mail addressed to inmates. The court granted the Government summary judgment, ruling that its sending of notice by certified mail to petitioner's place of incarceration satisfied his due process rights. The Sixth Circuit affirmed.

Held: The FBI's notice of the cash forfeiture satisfied due process. The Fifth Amendment's Due Process Clause entitles individuals whose

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property interests are at stake to “notice and an opportunity to be heard.” *United States v. James Daniel Good Real Property*, 510 U. S. 43, 48. The straightforward reasonableness under the circumstances test of *Mullane v. Central Hanover Bank & Trust Co.*, 339 U. S. 306, 313, not the balancing test approach of *Mathews v. Eldridge*, 424 U. S. 319, 335, supplies the appropriate analytical framework for the due process analysis. This Court has never viewed *Mathews* as announcing an all-embracing test for deciding due process claims, but has regularly turned to *Mullane* when confronted with questions regarding the adequacy of the method used to give notice. In *Mullane*, notice by publication was constitutionally defective as to known persons whose whereabouts were also known, because it was not “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” 339 U. S., at 314, 319. The FBI’s notice, sent by certified mail to a prison with procedures for delivering mail to the inmate, was so calculated. Contrary to petitioner’s argument, *Mennonite Bd. of Missions v. Adams*, 462 U. S. 791, 796–797, says that a State *must attempt to provide* actual notice, not that it *must provide* actual notice. And none of this Court’s cases cited by either party have required actual notice in proceedings such as this. Instead, the Government has been allowed to defend the “reasonableness and hence the constitutional validity of any chosen method . . . on the ground that it is in itself reasonably certain to inform those affected.” *Mullane, supra*, at 315. The Due Process Clause does not require heroic efforts by the Government to assure the notice’s delivery, nor does it require the Government to substitute petitioner’s proposed procedures that would have required verification of receipt for those in place at the FCI while he was there. Even if the current procedures improve delivery to some degree, this Court has never held that improvements in the reliability of new procedures necessarily demonstrate the infirmity of those that were replaced. Pp. 5–12.

223 F. 3d 422, affirmed.

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