

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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**ALVAREZ, COOK COUNTY STATE'S ATTORNEY *v.*
SMITH ET AL.****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SEVENTH CIRCUIT**

No. 08–351. Argued October 14, 2009—Decided December 8, 2009

Illinois law provides for forfeiture of movable personal property used to facilitate a drug crime, permits police to seize the property without a warrant, and allows the State to keep the property nearly five months before beginning judicial forfeiture proceedings. Respondents, six individuals who had cars and cash seized under that law, brought this federal civil rights action, claiming that the failure of the State to provide a speedy postseizure hearing violated the federal Due Process Clause. The District Court dismissed the case based on Circuit precedent, but, on appeal, the Seventh Circuit departed from that precedent and ruled for respondents. This Court granted certiorari to review the Seventh Circuit's due process determination, but at oral argument the Court learned that all of the actual property disputes between the parties had been resolved.

Held:

1. The case is moot. The Constitution permits this Court to decide legal questions only in the context of actual “Cases” or “Controversies,” Art. III, §2, and an actual controversy must exist at all stages of review, not just when the complaint is filed, *Preiser v. Newkirk*, 422 U. S. 395, 401. Here there is no longer any actual controversy regarding ownership or possession of the underlying property. There is no claim for damages before this Court; there is no properly certified class or dispute over class certification; and this case does not fit within the category of cases that are “capable of repetition” while “evading review.” Only an abstract dispute about the law remains. Pp. 4–6.

2. The judgment below is vacated. In moot cases, this Court normally vacates the lower court judgment, which clears the path for re-

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litigation of the issues and preserves the rights of the parties, while prejudicing none by a preliminary decision. *United States v. Munsingwear, Inc.*, 340 U. S. 36, 40. Where mootness is the result of settlement rather than happenstance, however, the losing party forfeits the equitable remedy of vacatur. *U. S. Bancorp Mortgage Co. v. Bonner Mall Partnership*, 513 U. S. 18, 25. This case more closely resembles mootness through happenstance than through settlement. In *Bancorp*, the party seeking review caused the mootness by voluntarily settling the issue contested throughout the litigation. Here, the Court believes that the presence of the federal case played no significant role in the termination of plaintiffs' state-court forfeiture proceedings. Plaintiffs' forfeiture cases took place with no procedural link to the case before this Court; apparently terminated on substantive grounds in their ordinary course; and, to the Court's knowledge, no one raised the procedural question at issue here in those cases. This Court therefore concludes that it should follow its ordinary practice and order vacatur. Pp. 6–9.

524 F. 3d 834, vacated and remanded.

BREYER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, THOMAS, GINSBURG, ALITO, and SOTOMAYOR, JJ., joined, and in which STEVENS, J., joined as to Parts I and II. STEVENS, J., filed an opinion concurring in part and dissenting in part.