

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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NEVADA ET AL. *v.* HICKS ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 99–1994. Argued March 21, 2001– Decided June 25, 2001

Respondent Hicks is a member of the Fallon Paiute-Shoshone Tribes of western Nevada and lives on the Tribes' reservation. After petitioner state game wardens executed state-court and tribal-court search warrants to search Hicks's home for evidence of an off-reservation crime, he filed suit in the Tribal Court against, *inter alios*, the wardens in their individual capacities and petitioner Nevada, alleging trespass, abuse of process, and violation of constitutional rights remediable under 42 U. S. C. §1983. The Tribal Court held that it had jurisdiction over the tribal tort and federal civil rights claims, and the Tribal Appeals Court affirmed. Petitioners then sought, in Federal District Court, a declaratory judgment that the Tribal Court lacked jurisdiction over the claims. The District Court granted respondents summary judgment on that issue and held that the wardens would have to exhaust their qualified immunity claims in the Tribal Court. In affirming, the Ninth Circuit concluded that the fact that Hicks's home is on tribe-owned reservation land is sufficient to support tribal jurisdiction over civil claims against nonmembers arising from their activities on that land.

Held:

1. The Tribal Court did not have jurisdiction to adjudicate the wardens' alleged tortious conduct in executing a search warrant for an off-reservation crime. Pp. 3–12.

(a) As to nonmembers, a tribal court's inherent adjudicatory authority is at most as broad as the tribe's regulatory authority. *Strate v. A-1 Contractors*, 520 U. S. 438, 453. Pp. 3–4.

(b) The rule that, where nonmembers are concerned, "the exercise of tribal power beyond what is necessary to protect tribal self-government or to control internal relations . . . cannot survive with-

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out express congressional delegation,” *Montana v. United States*, 450 U. S. 544, 564, applies to both Indian and non-Indian land. The land’s ownership status is only one factor to be considered, and while that factor may sometimes be dispositive, tribal ownership is not alone enough to support regulatory jurisdiction over nonmembers. Pp. 4–6.

(c) Tribal authority to regulate state officers in executing process related to the off-reservation violation of state laws is not essential to tribal self-government or internal relations. The State’s interest in executing process is considerable, and it no more impairs the Tribes’ self-government than federal enforcement of federal law impairs state government. The State’s interest is not diminished because this suit is against officials in their individual capacities. Pp. 6–11.

(d) Congress has not stripped the States of their inherent jurisdiction on reservations with regard to off-reservation violations of state law. The federal statutory scheme neither prescribes nor suggests that state officers cannot enter a reservation to investigate or prosecute such violations. Pp. 11–12.

2. The Tribal Court had no jurisdiction over the §1983 claims. Tribal courts are not courts of “general jurisdiction.” The historical and constitutional assumption of concurrent state-court jurisdiction over cases involving federal statutes is missing with respect to tribal courts, and their inherent adjudicative jurisdiction over nonmembers is at most only as broad as their legislative jurisdiction. Congress has not purported to grant tribal courts jurisdiction over §1983 claims, and such jurisdiction would create serious anomalies under 28 U. S. C. §1441. Pp. 12–15.

3. Petitioners were not required to exhaust their claims in the Tribal Court before bringing them in the Federal District Court. Because the rule that tribal courts lack jurisdiction over state officials for causes of action relating to their performance of official duties is clear, adherence to the tribal exhaustion requirement would serve no purpose other than delay and is therefore unnecessary. Pp. 15–16.

4. Various arguments to the contrary lack merit. Pp. 16–21.

196 F. 3d 1020, reversed and remanded.

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