

---

*Simmons v. Himmelreich*, No. 15-109

In February 2010, a federal prisoner brought an action in federal court against the United States pursuant to the

Federal Tort Claims Act ("FTCA") for torts arising out of an alleged assault by a fellow inmate. Later that year, the

prisoner brought a *Bivens* action against two prison employees in connection with the same injuries. The

prisoner's FTCA claim was dismissed by the district court because under the FTCA provision that prohibits claims

based on a federal employee's performance of a discretionary function. The prisoner's *Bivens* action was later

dismissed under the FTCA's judgment bar, which provides that a judgment in an FTCA action "shall constitute a

complete bar to any action by the claimant" arising from the same subject matter. After the court of appeals

reversed, the Supreme Court granted certiorari to decide whether the FTCA bars subsequent actions when an

FTCA claim has been dismissed for lack of subject matter jurisdiction.