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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

Syllabus

UNITED STATES *v.* KWAI FUN WONG

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

No. 13–1074. Argued December 10, 2014—Decided April 22, 2015*

The Federal Tort Claims Act (FTCA) provides that a tort claim against the United States "shall be forever barred" unless the claimant meets two deadlines. First, a claim must be presented to the appropriate federal agency for administrative review "within two years after [the] claim accrues." 28 U. S. C. §2401(b). Second, if the agency denies the claim, the claimant may file suit in federal court "within six months" of the agency's denial. *Ibid.*

Kwai Fun Wong and Marlene June, respondents in Nos. 13–1074 and 13–1075, respectively, each missed one of those deadlines. Wong failed to file her FTCA claim in federal court within 6 months, but argued that that was only because the District Court had not permitted her to file that claim until after the period expired. June failed to present her FTCA claim to a federal agency within 2 years, but argued that her untimely filing should be excused because the Government had, in her view, concealed facts vital to her claim. In each case, the District Court dismissed the FTCA claim for failure to satisfy §2401(b)'s time bars, holding that, despite any justification for delay, those time bars are jurisdictional and not subject to equitable tolling. The Ninth Circuit reversed in both cases, concluding that §2401(b)'s time bars may be equitably tolled.

Held: Section 2401(b)'s time limits are subject to equitable tolling. Pp. 4–18.

(a) *Irwin* v. *Department of Veterans Affairs*, 498 U. S. 89, provides the framework for deciding the applicability of equitable tolling to statutes of limitations on suits against the Government. There, the

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* Together with No. 13–1075, *United States* v. *June, Conservator*, also on certiorari to the same court.

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Court adopted a "rebuttable presumption" that such time bars may be equitably tolled. *Id.*, at 95. *Irwin*'s presumption may, of course, be rebutted. One way to do so—pursued by the Government here—is to demonstrate that the statute of limitations at issue is jurisdictional; if so, the statute cannot be equitably tolled. But this Court will not conclude that a time bar is jurisdictional unless Congress provides a "clear statement" to that effect. *Sebelius* v. *Auburn Regional Medical Center*, 568 U. S. ___, ___. And in applying that clear statement rule, this Court has said that most time bars, even if mandatory and emphatic, are nonjurisdictional. See *id.*, at ___. Congress thus must do something special to tag a statute of limitations as jurisdictional and so prohibit a court from tolling it. Pp. 4–7.

(b) Congress did no such thing in enacting §2401(b). The text of that provision speaks only to a claim's timeliness; it does not refer to the jurisdiction of the district courts or address those courts' authority to hear untimely suits. See *Arbaugh* v. *Y & H Corp.*, 546 U. S. 500, 515. Instead, it "reads like an ordinary, run-of-the-mill statute of limitations." *Holland* v. *Florida*, 560 U. S. 631, 647. Statutory context confirms that reading. Congress's separation of a filing deadline from a jurisdictional grant often indicates that the deadline is not jurisdictional, and here the FTCA's jurisdictional grant appears not in §2401(b) but in another section of Title 28, §1346(b)(1). That jurisdictional grant is not expressly conditioned on compliance with §2401(b)'s limitations periods. Finally, assuming it could provide the clear statement that this Court's cases require, §2401(b)'s legislative history does not clearly demonstrate that Congress intended the provision to impose a jurisdictional bar. Pp. 7–9.

(c) The Government's two principal arguments for treating §2401(b) as jurisdictional are unpersuasive and foreclosed by this Court's precedents. Pp. 9–17.

(1) The Government first points out that §2401(b) includes the same "shall be forever barred" language as the statute of limitations governing Tucker Act claims, which this Court has held to be jurisdictional. See, *e.g.*, *Kendall* v. *United States*, 107 U. S. 123, 125–126. But that phrase was a commonplace in statutes of limitations enacted around the time of the FTCA, and it does not carry talismanic jurisdictional significance. Indeed, this Court has construed the same language to be subject to tolling in the Clayton Act's statute of limitations. See *American Pipe & Constr. Co.* v. *Utah*, 414 U. S. 538, 559. And in two decisions addressing the Tucker Act's statute of limitations, the Court has dismissed the idea that that language is jurisdictionally significant. See *Irwin*, 498 U. S., at 95; *John R. Sand & Gravel Co.* v. *United States*, 552 U. S. 130, 137, 139. The "shall be forever barred" phrase is thus nothing more than an ordinary way to

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set a statutory deadline. Pp. 9–14.

(2) The Government next argues that §2401(b) is jurisdictional because it is a condition on the FTCA's waiver of sovereign immunity. But that argument is foreclosed by *Irwin*, which considered an identical objection but concluded that even time limits that condition a waiver of immunity may be equitably tolled. See 498 U. S., at 95–96. The Government's invocation of sovereign immunity principles is also peculiarly inapt here. Unlike other waivers of sovereign immunity, the FTCA treats the Government much like a private party, and the Court has accordingly declined to construe the Act narrowly merely because it waives the Government's immunity from suit. There is no reason to do differently here. Pp. 14–17.

No. 13–1074, 732 F. 3d 1030, and No. 13–1075, 550 Fed. Appx. 505, affirmed and remanded.

KAGAN, J., delivered the opinion of the Court, in which KENNEDY, GINSBURG, BREYER, and SOTOMAYOR, JJ., joined. ALITO, J., filed a dissenting opinion, in which ROBERTS, C. J., and SCALIA and THOMAS, JJ., joined.

SUPREME COURT OF THE UNITED STATES

Nos. 13–1074 and 13–1075

UNITED STATES, PETITIONER
13–1074 *v.*
KWAI FUN WONG

UNITED STATES, PETITIONER
13–1075 *v.*
MARLENE JUNE, CONSERVATOR

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

[April 22, 2015]

JUSTICE KAGAN delivered the opinion of the Court.

The Federal Tort Claims Act (FTCA or Act) provides that a tort claim against the United States "shall be forever barred" unless it is presented to the "appropriate Federal agency within two years after such claim accrues" and then brought to federal court "within six months" after the agency acts on the claim. 28 U. S. C. §2401(b). In each of the two cases we resolve here, the claimant missed one of those deadlines, but requested equitable tolling on the ground that she had a good reason for filing late. The Government responded that §2401(b)'s time limits are not subject to tolling because they are jurisdictional restrictions. Today, we reject the Government's argument and conclude that courts may toll both of the FTCA's limitations periods.

I

In the first case, respondent Kwai Fun Wong asserts that the Immigration and Naturalization Service (INS) falsely imprisoned her for five days in 1999. As the FTCA requires, Wong first presented that claim to the INS within two years of the alleged unlawful action. See §2401(b); §2675(a). The INS denied the administrative complaint on December 3, 2001. Under the Act, that gave Wong six months, until June 3, 2002, to bring her tort claim in federal court. See §2401(b).

Several months prior to the INS's decision, Wong had filed suit in federal district court asserting various *non*-FTCA claims against the Government arising out of the same alleged misconduct. Anticipating the INS's ruling, Wong moved in mid-November 2001 to amend the complaint in that suit by adding her tort claim. On April 5, 2002, a Magistrate Judge recommended granting Wong leave to amend. But the District Court did not finally adopt that proposal until June 25—three weeks *after* the FTCA's 6-month deadline.

The Government moved to dismiss the tort claim on the ground that it was filed late. The District Court at first rejected the motion. It recognized that Wong had managed to add her FTCA claim only after §2401(b)'s 6-month time period had expired. But the court equitably tolled that period for all the time between the Magistrate Judge's recommendation and its own order allowing amendment, thus bringing Wong's FTCA claim within the statutory deadline. Several years later, the Government moved for reconsideration of that ruling based on an intervening Ninth Circuit decision. This time, the District Court dismissed Wong's claim, reasoning that §2401(b)'s 6-month time bar was jurisdictional and therefore not subject to equitable tolling. On appeal, the Ninth Circuit agreed to hear the case en banc to address an intra-circuit conflict on the issue. The en banc court held that the 6-

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