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Media Contact: Glenn Lammi | glammi@wlf.org | 202-588-0302

Supreme Court Rejects Extraterritorial Liability Under the Alien Tort Statute

(*Nestle USA, Inc. v. Doe*)

“Today’s decision reinforces the presumption that, unless it explicitly says otherwise, a federal statute applies only domestically.”

—Cory Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC—The U.S. Supreme Court today overturned a Ninth Circuit decision that would have allowed activists to impose liability on U.S. companies for aiding and abetting a third-party’s alleged human rights violations overseas. The decision was a victory for Washington Legal Foundation (WLF), which filed an *amicus* brief in the case on behalf of itself and the Allied Educational Foundation.

The plaintiffs, citizens of Mali who worked on Ivory Coast cocoa farms, allege mistreatment by cocoa farmers. The U.S. Court of Appeals for the Ninth Circuit held that the plaintiffs’ lawsuit could proceed under the Alien Tort Statute (ATS), which authorizes tort claims bottomed on a violation of “the law of nations.” Citing evidence that the defendants, U.S.-based cocoa processors and chocolate manufacturers, exploited the lower prices available for cocoa harvested from Ivory Coast farms, the Ninth Circuit held that the defendants must stand trial for aiding and abetting human rights abuses.

In an 8-1 opinion, the Supreme Court reversed. The Court held the plaintiffs here improperly sought to apply the ATS extraterritorially. The Court reiterated that nothing in the ATS rebuts the presumption of domestic application in federal law. And since the ATS does not apply extraterritorially, the plaintiffs must show that the relevant conduct occurred in the United States. Yet nearly all the relevant conduct in the plaintiffs’ complaint occurred in the Ivory Coast.

In a portion of the opinion joined only by Justice Gorsuch, Justice Thomas agreed with WLF that permitting such suits to proceed also disregards both the Constitution’s and the Supreme Court’s crucial limits on a federal court’s ability to imply a new cause of action under the ATS. As WLF’s brief argued, whether the ATS should supply a remedy for aiding and abetting is a decision best left to Congress, not the Judiciary.

Celebrating its 44th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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