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In WLF Victory, Supreme Court Clarifies Limits of Aiding-and-Abetting Liability

(Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos)

“Aiding-and-abetting liability requires more than the routine sale of a legal product that might on occasion become the instrumentality of a crime.”

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

WASHINGTON, DC—The U.S. Supreme Court today reversed the United States Court of Appeals for the First Circuit in an important case about aiding-and-abetting liability. The decision was welcome news for Washington Legal Foundation (WLF), which filed an amicus brief explaining why the Court should reverse the decision below.

The case arises from the drug-cartel violence currently disrupting daily life in Mexico. Unhappy that it is having to pay for increased police activity, Mexico sued several U.S. firearms manufacturers for allegedly causing the violence. According to Mexico, the firearms manufacturers should have stopped making AR-15s, imposed universal background check requirements, and stopped citizens from buying multiple firearms. Their failure to do so, Mexico alleges, allowed for the straw purchase of firearms and the smuggling of those firearms into Mexico. From there, drug cartels used the firearms to commit violent crimes, leading to the increased spending by Mexico.

In its amicus brief supporting the firearms manufacturers, WLF described why the First Circuit’s decision allowing the firearms manufacturers to be held liable for aiding-and-abetting liability is wrong. Just last term in *Twitter v. Taamneh*, the Supreme Court clarified that companies cannot be held liable under an aiding-and-abetting theory when criminals simply use lawful products in an unlawful manner. Here, Mexico alleged that the firearms manufacturers could be held liable for making and selling lawful products that criminals misused. As that conflicts with *Twitter*, the Court properly reversed.

Celebrating its 48th 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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