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In WLF Victory, Supreme Court Rejects Expansion of Aiding-and-Abetting Liability Under Federal Law (*Cisco Systems v. Doe I*)

“The respondents asked the Court to go far beyond any residual common law discretion that federal courts possess. The Court rightly declined that invitation.”

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

WASHINGTON, DC—The U.S. Supreme Court today overturned an appeals court decision that would have allowed activists to impose massive liability on U.S. entities for “aiding and abetting” a third-party’s alleged human rights violations overseas. The decision was a victory for Washington Legal Foundation, which filed an amicus brief urging reversal.

The plaintiffs, practitioners of Falun Gong, allege that they suffered human rights abuses enabled by the Chinese government’s technological assistance from Cisco Systems, Inc. Reversing the district court, the U.S. Court of Appeals for the Ninth Circuit held that the plaintiffs’ lawsuit could proceed under the Alien Tort Statute (ATS) and the Torture Victim Protection Act (TVPA). Citing evidence that Cisco, a worldwide technology leader, lawfully sold networking hardware and software to Chinese law enforcement agencies as permitted by Commerce Department regulations, the Ninth Circuit held that Cisco must stand trial for aiding and abetting human rights abuses.

Today the Supreme Court rejected that view, holding that federal courts may not create new causes of action under the ATS to enforce norms of international law. It closed the door left open in *Sosa v. Alvarez-Machain*, ruling that the class of cases in which courts could prudently recognize such claims is a “null set” because doing so would intrude on Congress’s authority to define offenses against the law of nations and on the political branches’ conduct of foreign policy; as a result, there is no ATS aiding-and-abetting liability for the international-law violations alleged here.

The Court further held that the TVPA does not authorize aiding-and-abetting liability. The statute creates an express cause of action only against those who “subject” another to torture; under *Central Bank of Denver*, that text does not encompass secondary liability, which sweeps more broadly than the language Congress chose.

Celebrating its 49th 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.