

DC CIRCUIT REINSTATES HUMAN RIGHTS CASE AGAINST EXXON MOBIL

The Court of Appeals for the District of Columbia Circuit ruled today that a lawsuit against ExxonMobil for human rights abuses can go forward.

Eleven Indonesian citizens sued Exxon Mobil Corporation for abuses allegedly committed by ExxonMobil's security personnel, including murder, torture and sexual assault. Plaintiffs allege that these security personnel physically abused and killed their family members who lived or worked in villages within Exxon's sprawling operations in rural Aceh, Indonesia. The Plaintiffs had largely completed discovery and were preparing for trial, when the case was transferred to a new district court, which dismissed the case on standing grounds. This appeal, and a cross-appeal by Exxon, followed.

Agnieszka Fryszman, a partner at Cohen Milstein Sellers & Toll and lead counsel for the Plaintiffs who argued the case, said: "The Court of Appeals' opinion is a big victory for the Plaintiffs."

The Court:

- Held that corporations can be liable under the Alien Tort Statute (ATS). In a scholarly 112 page opinion, the Court rejected the Second Circuit Court's 2010 decision in *Kiobel v. Royal Dutch Petroleum*, which had held that corporations were not liable under international law, holding: "It would create a bizarre anomaly to immunize corporations from liability for the conduct of their agents in lawsuits brought for 'shockingly egregious violations of universally recognized principles of international law'";
- Held that a defendant can be liable for aiding and abetting under the ATS if it had knowledge of the violations and provided substantial assistance to those who carried out the harms;
- Affirmed that non-resident aliens have standing to sue in the United States courts, reversing the 2009 decision dismissing Plaintiffs' common law claims on standing grounds.

Fryszman adds: "This decision means that our clients and their families who endured murder, torture, and sexual assault will finally be able to present their evidence to a jury."

Co-counsel Paul Hoffman of Schonbrun DeSimone Seplow Harris Hoffman & Harrison, LLP, who also argued for Plaintiffs, said "The well-reasoned and thoughtful opinion is an important one for the enforcement of human rights law."

Co-counsel Terry Collingsworth of Conrad & Scherer added "Since I first met our clients first in 2001, they have endured not only the agony of human rights crimes, but ten years of justice delayed. We are looking forward to getting this case to trial so that our long-suffering clients can obtain justice."

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