22-5913 ORIGINAL

No. _____

IN THE

Supreme Court of the United States

JOHN BERMAN,

Petitioner,

v.

Kristin Draper,

Respondent,

On Petition for a Writ
of Certiorari to the United States Court of Appeals
for the DC Circuit

(No. 21-709)

PETITION FOR A WRIT OF CERTIORARI

JOHN BERMAN

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QUESTIONS PRESENTED

1. Does the DC Circuit's statement on RICO continuity directly contradict the HJ standard: "the threat of continuity may be established by showing that the predicate acts or offenses are **part of an ongoing entity's regular way of doing business**?" YES
2. Is the DC Circuit's statement on RICO continuity even a legal standard? NO
3. Was the trial court's declaration of "entirely lawful," applied to the freezing of the $657k Fund in order to extract a $100k claim, erroneous and blind to obvious extortion? YES

PARTIES TO THE PROCEEDING

Plaintiff Berman has been a target of extortion of trust funds, of which he is a beneficiary, by lawyers in Minneapolis and Montgomery County Maryland.

Defendant is a lawyer in the Shulman Rogers enterprise, a DC law firm whose regular way of doing business – as shown by their insouciance in the face of multiple written accusations of extortion -- is to withhold an entire $657k trust fund for a $100k claim and then make demands for payment in order to release the entire trust balance, which is classic hostage taking with a ransom demand – also called extortion.

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The Order from the DC Circuit Court of Appeals stating a supposed "virtual impossibility," which Berman showed could not even be a legal standard and which squarely contradicted the very broad standard HJ articulated for showing RICO continuity (any method that demonstrates an enterprise's regular way of doing business). The Order from the district court that – inexplicably and incredibly – stated that over-attaching a trust fund by any multiple (here over 4:1) was "entirely lawful." Such profound ignorance of the law – to say nothing of common sense – should warrant a direct correcton by an appeals court. The DC Circuit could say nothing in the face of such appalling incompetence of the district judge. So it changed the subject to its non-legal-standard of "virtual impossibility."

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth and Fifth Amendments, which are supposedly enforced by the federal courts — and on state courts — guarantee due process and property rights, and have become a sad joke in the hands of the courts. Here, the courts below believe it is "completely lawful" *for lawyers* to hold property hostage and make demands for its return; and make up their own rules that

contract this Court's very expansive definition of continuity. All this in order to get criminally-liable lawyers off the hook.

STATEMENT: This Court's authority controls over whatever shenanigans in which a federal appeals court wants to engage in making up a false legal "standard." This Court stated that: "the threat of continuity may be established by showing that the predicate acts or offenses are **part of an ongoing entity's regular way of doing business.**" (HJ INC. v. Northwestern Bell Telephone Co., 492 US 229, 242(1989).) This is a broad and open-ended statement that does not prescribe or proscribe any particular approach or group of approaches to demonstrating a "regular way of doing business." Yet the DC Circuit throws out an obviously legitimate RICO case, **supported by ironclad documentary email evidence,** showing an enterprise's "business as usual" approach to extortion. The DC Circuit's breezy false "standard" was: "We've repeatedly said that it's 'virtually impossible' to identify such a pattern by alleging a 'single scheme, single injury, and few victims." (Ctr. for Immigr. Stud. v. Cohen, 806 F. App'x 7, 8 (D.C. Cir. 2020.)

The record shows that Plaintiff Berman repeatedly confronted the top and managing partners of the RICO-extortion enterprise, the Shulman Rogers law firm, with the documentary email evidence of emails from Draper (a lawyer at the firm), holding hostage 100% of trust-property, including what *must have belonged* to trust beneficiaries (and Draper confirmed

this by later unconditionally releasing $150,000 to the trust beneficiaries after six months of hostage holding). Berman asserted that the repeated email confrontations to the Enterprise -- met with continuous silence by Shulman Rogers -- demonstrated that the Enterprise treats allegations of extortion as nothing special to which to reply, let alone investigate: that is to say, obvious extortion is merely business as usual.

The "Circuit-split" issue here is whether the DC Circuit's bizarre "standard" (which is not any kind of standard at all, not even for a driver-license test or any academic course, no matter how trivial) could pass as a legal standard *anywhere* – never mind in any regional federal circuit. Or any *actual* court of law at all, if one could be found.

The DC Circuit's "standard" could not meet the legal standard for obtaining a driver license. A legal standard (or any standard) is a set of precise necessary conditions that, together, form a minimally-sufficient condition for a legal authority to take action (e.g. issue a driver permit). A driver permit is issued after certain necessary conditions are met: a written test, parallel parking, etc.

If an examiner stated that it is "virtually impossible" to pass a driver test under certain conditions, the first question the examinee would ask is what differences distinguish this "virtually impossible" slim set of conditions from those conditions that are indeed impossible. In other words, there is no precision at all in that "virtually impossible"

statement. It is, by definition, vague and therefore cannot be a legal standard. If a member of Congress wrote legislation containing such phrasing, it would be roundly rejected as bizarre. Yet the DC Circuit feels perfectly comfortable with it – when necessary, to get a law firm and a district judge off the hook.

One could have hoped for better, but unfortunately the DC federal district court and DC Circuit are full-on players in the lawyer protection racket evident elsewhere. The racket found it necessary to protect the Defendant (Draper, a lawyer and member of an extortion RICO enterprise, the Shulman Rogers law firm), who was a participant in the hostage-holding of an entire $657,000 trust fund ("Fund") of which Plaintiff Berman was a 50% beneficiary.

Upon announcement of the hostage-taking, Draper immediately began issuing demands for the beneficiaries to let the extortionists get a cut of the Fund, in trade for the release of whatever was left over – the large majority (over 80%) of the Fund held-hostage.

Subsequent discrete demands were made while the Fund was held-hostage *continuously* (and is still held-hostage, in part, today over four years later). The hostage-holding and extortion were (and still are) one, continuous, ongoing extortion, with discrete repetitions and/or modifications of demands. This is characteristic of any such extortionate situation. Because the extortionists were able to coopt a trustee, this extortion has gone on for over four years.

The demands were for a $100k cut of the Fund, in exchange for releasing the rest of the fund. This is a classic hostage-taking and extortion. Draper's unconditional release of $150k (to the Trust's beneficiaries, who gave up no rights in the property) six months after the initial hostage-taking, confirmed exactly what Plaintiff Berman had said during that time: that a substantial amount of the Fund could never have belonged to anyone other than the beneficiaries. That money should never have been held, just as any hostage-holding is illegal.

Based on its characterization (quoted infra) the federal district court ("trial court") would call any hostage-taking of property, "entirely lawful." The trial court would call "entirely lawful" an individual, who has the authentic bill of sale and clean title to an airliner's landing gear – and who boards the plane with no one on it (so no loss of life is threatened); and who tells those personnel nearby the aircraft: that no one can board the plane until he gets his landing gear. Of course the police would be called and arrest the perpetrator of this "entirely lawful" behavior. The trial court wrote:

> But the amended complaint alleges conduct that appears entirely lawful: defendant represented a trustee, tried to settle with Plaintiff, and was bound by certain strictures of Maryland law and the directives of a state court. Plaintiff's amended complaint hardly suggests impropriety much less plausibly allege a conspiracy involving a pattern of racketeering activity.

> Mr. CA Cooper's (DB Cooper's brother) conduct appears entirely lawful: he tried to settle with an airline while he prevented an airliner from leaving the gate. He held the lawful ownership-title to the aircraft's landing gear. He was pursuing his claim within the strictures of Maryland law, conferring an ownership interest in the aircraft. This hardly suggests impropriety.

These two near-identical examples show quintessential hostage-taking and extortion; and show an incompetent fool of a district judge. The fact allegations (with supporting documentation) showed that Plaintiff presented (several times by email) to Shulman Rogers' top partners and management, an accusation with email documentation of extortion. The Shulman Enterprise's silence raised the highly-plausible inference that this ongoing extortion was a regular way of their doing business. This met the RICO continuity standard articulated by the Supreme Court: "the threat of continuity may be established by showing that the predicate acts or offenses are part of an ongoing entity's regular way of doing business." That "regular way of doing business" is sufficient for continuity. The DC Circuit's glib "virtually impossible" false "standard" is irrelevant. HJ's open-ended method (any method) of showing a "regular way of doing business" controls.

The trial-court's opinion was simply a breezy way to get rid of an obvious, classic extortion, committed by lawyers. The trial court ignored the fact that the entire Fund was held hostage, in a gross over-

attachment for extortionate advantage.

Faced with an obvious case of classic extortion, ignored by the trial court, the DC Circuit needed to find a way out of the problem by ignoring the trial – court's declaration of obvious extortion as, "entirely lawful." So the DC Circuit focused on its false "virtually impossible" "standard," which could not qualify as a standard for a driving test, in order to dispose of the uncomfortable spectacle of an extortion enterprise of lawyers.

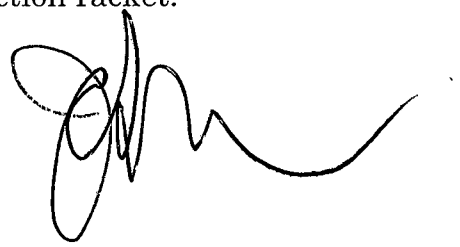
CORE FACTS

Beginning March 5, 2018, Plaintiff was targeted for extortion by the Enterprise, which stated that the $657k Fund would be held back in its entirety because of a $100k claim against it. In the week following, Plaintiff stated that it was inconceivable that the entire Fund could be legitimately held back for less than 20% of the balance; and that this was an extortion. Six months later, $150k was release, defining extortion. Because this is a situation with a trustee extortionately holding a large amount of money that could belong *only* to beneficiaries, this has been a continuous extortion.

The Federal Question/Reasons for Granting Petition

Does the DC Circuit's "virtually impossible" standard squarely contradict HJ's broad prescription that so long as a plaintiff shows a regular way of an enterprise's doing business, RICO continuity is

established? A lower court cannot simply ignore controlling authority and make up some "virtually impossible" standard. This is an affront to this Court and Congress on a crucial mechanism to attack white-collar crime. Does the "virtually impossible" statement even qualify as any standard at all, given its vagueness? The answers are very simple. "Virtually impossible" does not articulate any actual precision so as to qualify as any standard at all. It negates the broad statement of HJ. The district court's statement of complete lawfulness of a hostage-taking with ransom demands displays a disqualifying mentality for anything resembling a "judge," except in a mafia protection racket.



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