

04-1244 SCHEIDLER V. NOW

DECISION BELOW: 396 F3d 807

LOWER COURT CASE NUMBER: 99-3076, 99-3336, 99-3891, 99-3892, 99-2050

QUESTION PRESENTED:

In *Scheidler v. National Organization for Women, Inc.*, 537 U.S. 393 (2003), this Court reversed a decision of the Seventh Circuit that had affirmed a civil judgment and nationwide injunction entered under the Racketeer Influenced and Corrupt Organizations Act (RICO) against various anti-abortion protesters. In reversing, this Court explained (*id.* at 411 (emphasis added in part)): "Because all of the predicate acts supporting the jury's finding of a RICO violation must be reversed, the judgment that petitioners violated RICO must also be reversed. Without an underlying RICO violation, the injunction issued by the District Court must necessarily be vacated." On that basis, this Court determined that it "need not address the second question" on which certiorari had been granted, namely "whether a private plaintiff in a civil RICO action is entitled to injunctive relief under 18 U.S.C. § 1964." *Ibid.* The questions presented are:

1. Whether the Seventh Circuit, on remand, disregarded this Court's mandate by holding that "all" of the predicate acts supporting the jury's finding of a RICO violation were not reversed, that the "judgment that petitioners violated RICO" was not necessarily reversed, and that the "injunction issued by the District Court" might not need to be vacated.
2. Whether the Seventh Circuit correctly held, in conflict with decisions of the Sixth and Ninth Circuits, that the Hobbs Act, 18 U.S.C. § 1951(a), can be read to punish acts or threats of physical violence against "any person or property" in a manner that "in any way or degree * * * affects commerce," even if such acts or threats of violence are wholly unconnected to either extortion or robbery.
3. Whether this Court should again grant certiorari to resolve the deep and important intercircuit conflict over whether injunctive relief is available in a private civil action for treble damages brought under RICO, 18 U.S.C. § 1964(c).

CONSOLIDATED WITH 04-1352 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 6/28/2005