24-20 FULD V. PLO

DECISION BELOW: 82 F.4th 74

LOWER COURT CASE NUMBER: 22-76, 22-496

QUESTION PRESENTED:

The Anti-Terrorism Act (ATA), 18 U.S.C. § 2331 *et seq.*, provides an extraterritorial private right of action for victims of terror attacks committed against American nationals abroad. In 2019, Congress amended the ATA by enacting the Promoting Security and Justice for Victims of Terrorism Act (PSJVTA). Under the PSJVTA, the Palestinian Liberation Organization (PLO) and Palestinian Authority (PA) "shall be deemed to have consented to personal jurisdiction" in an ATA action if:

(a) more than 120 days after the statute's enactment, they pay any terrorist convicted of or killed while committing a terror attack against an American national, and the payment is made "by reason of' the conviction or terror attack, 18 U.S.C. § 2334(e)(1)(A); or

(b) more than 15 days after the statute's enactment, they "conduct any activity" while physically present in the United States (with limited exceptions), *id.* § 2334(e)(1)(B).

The PLO and PA engaged in both categories of conduct after the trigger dates. But in the decisions below, the Second Circuit facially invalidated the PSJVTA. The court held that the Fifth Amendment forbids Congress from specifying conduct that triggers a defendant's consent to federal jurisdiction unless the statute provides the defendant with some "governmental benefit" in return, and that the PLO and PA had not received such a benefit.

The question presented is:

Whether the PSJVTA violates the Fifth Amendment.

CONSOLIDATED WITH 24-151 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 12/6/2024