

## **04-1352 OPERATION RESCUE V. NOW**

DECISION BELOW:396 F3d 807

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

### **QUESTIONS PRESENTED:**

In *Scheidler v. National Organization for Women, Inc.*, 537 U.S. 393 (2003), this Court held that "all of the predicate acts supporting the jury's finding of a RICO violation must be reversed," that therefore "the judgment that petitioners violated RICO must also be reversed," and that "[w]ithout an underlying RICO violation, the injunction issued by the district court must necessarily be vacated." *Id.* at 411. On remand, however, the Seventh Circuit held that all of the predicate acts were not reversed, and that an injunction under RICO might yet be sustained against petitioners on the basis of the supposedly unreversed predicate acts.

The questions presented are:

1. Does the Seventh Circuit's defiance of this Court's mandate merit summary reversal?
2. Did the Seventh Circuit err by ruling, in conflict with the Ninth Circuit, and in conflict with the official position of the Department of Justice, that private civil litigants may obtain injunctive relief under the federal Racketeer Influenced and Corrupt Organizations (RICO) statute?
3. Did the Seventh Circuit err by ruling, in conflict with the Sixth and Ninth Circuits, and in conflict with the official position of the Department of Justice, that the federal Hobbs Act, 18 U.S.C. § 1951, may plausibly be construed to prohibit, without any connection to robbery or extortion, any act or threat of "physical violence to any person or property" that "in any way or degree. . . affects commerce"?

CERT. GRANTED 6/28/2005

CONSOLIDATED WITH 04-1244 FOR ONE HOUR ORAL ARGUMENT.