

Alien Tort Claim Certiorari Grant

Monday, October 17, 2011

Back in 2009, we named an Alien Tort Claim case, Abdullahi v. Pfizer, 562 F.3d 163 (2d Cir. 2009), to our "[bottom ten](#)" list of the worst cases of the year. We were offended that any court would allow a pharmaceutical company to be prosecuted for irregularities in overseas clinical trials under a law meant for crimes against humanity. We [expressed hope](#) that the Supreme Court would grant *certiorari* in Abdullahi and reverse, but that didn't happen.

Well, today the Court granted *certiorari* in a case that, if favorably decided, would eliminate cases like Abdullahi. The case is Kiobel v. Royal Dutch Petroleum, 10-1491 (U.S., *cert. granted* Oct.17, 2011). The question presented does not directly address our personal gripes with Abdullahi, but would get rid of all Alien Tort Claim cases against corporations on jurisdictional grounds - achieving the same result on different grounds.

Question 2 of the Kiobel *certiorari* petition asks, in pertinent part: "Whether corporations are immune from tort liability for violations of the law of nations [under the Alien Torts Claim statute]." If the Court gives a "yes" answer (as we think it should), then cases like Abdullahi go away - and not a moment too soon. For more on Kiobel (and the companion Mohammed v. Rajoub case raising similar questions under the Torture Victim Protection Act), see the ever-informative [SCOTUSblog](#).

The Alien Torts Claims Act has a laudable purpose, but like all too many things in our legal system, that purpose has been systematically distorted in recent years by plaintiffs looking for ever more ways to expand liability to ever more ridiculous lengths. While this jurisdictional basis was not exactly the relief we were looking for when we criticized Abdullahi, we'll take what we can get - if we can get it.

So put this one on your watch list.