

Court Tosses Chiquita Terror Payment Claims

Associated Press

MIAMI (AP) — A divided federal appeals court on Thursday threw out claims against produce giant Chiquita Brands International made by relatives of thousands of Colombians killed during years of bloody civil war.

A panel of the 11th U.S. Circuit Court of Appeals ruled 2-1 that federal courts have no jurisdiction over the Colombian claims. The lawsuits accused Chiquita of assisting in the killings by paying \$1.7 million to a violent right-wing paramilitary group known as the AUC, the Spanish acronym for United Self-Defense Forces of Colombia.

Chiquita, based in Charlotte, North Carolina, formerly operated large banana plantations in Colombia through its Banadex subsidiary. Chiquita insists it was the victim of extortion and was forced to pay the AUC or face violence directed at its employees and assets in Colombia.

The majority cited a 2013 U.S. Supreme Court ruling known as *Kiobel vs. Royal Dutch Petroleum* that imposed limits on attempts by foreigners to use U.S. courts to seek damages against corporations for human rights abuses abroad. Chiquita had insisted that ruling meant the Colombians' lawsuit had to be tossed out.

"We are gratified that the U.S. Court of Appeals has now agreed with us and the claims have been dismissed," said Chiquita spokesman Ed Loyd in an email statement. "The decision reinforces what Chiquita has maintained from the beginning — that Chiquita is not responsible for the tragic violence that has plagued Colombia."

Attorneys for the estimated 4,000 Colombians could still ask the full 11th Circuit or the Supreme Court to review the case, but otherwise their only option would be to an uphill effort to seek damages through Colombian courts.

"It's another tragedy for the victims of the war, who have already been through so much," said Washington attorney Paul Wolf, who represents a large number of Colombian plaintiffs. "There is nowhere else they can go for justice."

The AUC was formed in 1997 to unite several right-wing militias to battle the leftist guerrilla group known as FARC, Spanish for Revolutionary Armed Forces of Colombia. The resulting campaign killed some 50,000 people, mostly civilians, according to Colombian prosecutors. Both the AUC and FARC are listed as terrorist organizations by the U.S.

Chiquita in 2007 pleaded guilty to U.S. criminal charges stemming from the payments and paid a \$25 million fine to the Justice Department.

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The Colombian lawsuits followed and were consolidated in 2008 before a West Palm Beach federal judge, who in 2011 rejected Chiquita's attempt to get them dismissed. But U.S. Judge Kenneth Marra also agreed to let the company take the cases to the appeals court before they went any further.

Writing for the majority, U.S. Circuit Judge David Sentelle said Congress would have to update a law dating to 1789 — known as the Alien Tort Statute, or ATS — for the Colombians to sue Chiquita in the U.S.

"There is no other statute. There is no jurisdiction," Sentelle wrote.

U.S. Circuit Judge Beverly Martin dissented, noting that Chiquita's decisions to pay the AUC were made at company headquarters on U.S. soil — enough to make the company liable.

"By failing to enforce the ATS under these circumstances, I fear we disarm innocents against American corporations that engage in human rights violations abroad," Martin wrote.

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