

# UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

## Keo Ratha v. Phatthana Seafood Co., Ltd.

No. 18-55041, United States Court of Appeals for the Ninth Circuit (February 25, 2022)

### SUMMARY

The Ninth Circuit affirmed summary judgment for defendants in a TVPRA civil action brought by Cambodian villagers alleging forced labor at Thai seafood factories. Assuming § 1595 may apply extraterritorially, the court held that foreign corporate defendants were not "present in the United States" under § 1596(a)(2) because they lacked physical presence and minimum contacts, and that domestic defendants did not knowingly benefit from the alleged violations—attempted benefit is insufficient, and generalized knowledge of industry abuses does not satisfy the "knew or should have known" standard. The district court also did not abuse its discretion in denying plaintiffs' motion for an extension of time.

### CASE DETAILS

|                       |                                                                                                                                                                                             |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States Court of Appeals for the Ninth Circuit                                                                                                                                        |
| WRITING FOR THE COURT | Bade; Marsha S. Berzon; Ryan D. Nelson; Bridget S. Bade                                                                                                                                     |
| JURISDICTION          | Federal                                                                                                                                                                                     |
| DECIDED               | February 25, 2022                                                                                                                                                                           |
| DOCKET                | 18-55041                                                                                                                                                                                    |
| DISPOSITION           | affirmed                                                                                                                                                                                    |
| PROCEDURAL POSTURE    | Appeal from the United States District Court for the Central District of California's grant of summary judgment in favor of defendants.                                                     |
| STANDARD OF REVIEW    | De novo for summary judgment; abuse of discretion for denial of extension of time.                                                                                                          |
| PRECEDENTIAL VALUE    | Published                                                                                                                                                                                   |
| PARTIES               | KEO RATHA; SEM KOSAL; SOPHEA BUN; YEM BAN; NOL NAKRY; PHAN SOPHEA; SOK SANG v. PHATTHANA SEAFOOD CO., LTD.; S.S. FROZEN FOOD CO., LTD.; RUBICON RESOURCES, LLC; WALES AND CO. UNIVERSE LTD. |

### TOPICS

civil procedure

summary judgment

personal jurisdiction

subject matter jurisdiction

statutory interpretation

torts

remedies

appellate procedure

## PRACTICE AREAS

Civil Rights

Human Trafficking

Torts

## QUESTIONS PRESENTED

1. Whether the civil remedy provision of the TVPRA, 18 U.S.C. § 1595, applies extraterritorially to foreign conduct.
2. Whether foreign defendants Phatthana and S.S. Frozen were 'present in the United States' as required by 18 U.S.C. § 1596(a)(2) for extraterritorial application.
3. Whether Rubicon and Wales knowingly benefitted from participation in a venture that they knew or should have known engaged in TVPRA violations.

## HOLDINGS

1. Phatthana was not 'present in the United States' because it had no physical presence, and even under a minimum contacts standard, Plaintiffs failed to establish specific or general jurisdiction. S.S. Frozen's claims fail because they depend on Phatthana's presence.
2. Rubicon did not knowingly benefit because an attempt to benefit is insufficient; the statute requires actual benefit, not attempted benefit.
3. Plaintiffs failed to raise a triable issue that Wales knew or should have known of violations before February 23, 2012, and Wales did not benefit after that date.
4. The district court did not abuse its discretion.

## KEY QUOTATIONS

*"We therefore hold that the phrase 'knowingly benefits' as used in § 1595(a) does not encompass attempts to benefit." (at 30-31)*

*"If anything, then, Yunis supports the conclusion that § 1596's use of the term 'present in' requires physical presence, not merely the types of minimum contacts that satisfy due process." (at 18-19)*

*"Because the payment for inspection services is the only benefit Plaintiffs allege Wales received during the relevant time period, and the evidence is insufficient to create a triable issue that this occurred after February 23, 2012, we affirm the district court's summary judgment in favor of Wales." (at 38)*

## FACTUAL BACKGROUND

Cambodian villagers alleged they were trafficked into Thailand and subjected to forced labor at seafood processing factories owned by Phatthana Seafood Co., Ltd. and S.S. Frozen Food Co., Ltd., both Thai companies. Plaintiffs worked at the factories from 2010 to 2012. Rubicon Resources, LLC, a Delaware company, attempted to import shrimp from Phatthana but the shipment was rejected by Walmart and returned.

Wales & Co. Universe Ltd., a Thai company registered in California, inspected the shrimp before shipment. No shrimp from the Songkhla factory was successfully sold in the United States during the relevant period.

## PROCEDURAL HISTORY

Plaintiffs brought claims under the Trafficking Victims Protection Reauthorization Act (TVPRA) and the Alien Tort Statute. The district court dismissed the Alien Tort Statute claims at the pleading stage. After discovery, the district court granted summary judgment for all defendants, finding lack of subject matter jurisdiction over foreign defendants and no triable issue on the merits for domestic defendants. Plaintiffs appealed.

## DISPOSITION

affirmed

## CASES CITED

- *Ditullio v. Boehm*, 662 F.3d 1091 (9th Cir. 2011)
- *Roe v. Howard*, 917 F.3d 229 (4th Cir. 2019)
- *RJR Nabisco, Inc. v. European Community*, 579 U.S. 325 (2016)
- *EEOC v. Arabian American Oil Co.*, 499 U.S. 244 (1991)
- *Foley Bros., Inc. v. Filardo*, 336 U.S. 281 (1949)
- *Nestlé USA, Inc. v. Doe*, 141 S. Ct. 1931 (2021)
- *Morrison v. National Australia Bank Ltd.*, 561 U.S. 247 (2010)
- *Union Pacific Railroad Co. v. Brotherhood of Locomotive Engineers*, 558 U.S. 67 (2009)
- *Midbrook Flowerbulbs Holland B.V. v. Holland American Bulb Farms, Inc.*, 874 F.3d 604 (9th Cir. 2017)
- *PDK Laboratories Inc. v. DEA*, 362 F.3d 786 (D.C. Cir. 2004)
- *Whitehouse v. Illinois Central Railroad Co.*, 349 U.S. 366 (1955)
- *Hardt v. Reliance Standard Life Insurance*, 560 U.S. 242 (2010)
- *Gross v. FBL Financial Services, Inc.*, 557 U.S. 167 (2009)
- *International Shoe Co. v. State of Washington*, *International Shoe Co. v. Washington*, 326 U.S. 310 (1945)
- *United States v. Yunis*, 924 F.2d 1086 (D.C. Cir. 1991)
- *United States v. Shi*, 525 F.3d 709 (9th Cir. 2008)
- *United States v. Moreno-Morillo*, 334 F.3d 819 (9th Cir. 2003)
- *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797 (9th Cir. 2004)
- *Steel v. United States*, 813 F.2d 1545 (9th Cir. 1987)
- *Farmers Insurance Exchange v. Portage La Prairie Mutual Insurance*, 907 F.2d 911 (9th Cir. 1990)
- *Ranza v. Nike, Inc.*, 793 F.3d 1059 (9th Cir. 2015)
- *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915 (2011)
- *CollegeSource, Inc. v. AcademyOne, Inc.*, 653 F.3d 1066 (9th Cir. 2011)
- *Williams v. Yamaha Motor Co.*, 851 F.3d 1015 (9th Cir. 2017)

- Axiom Foods, Inc. v. Acerchem International, Inc., 874 F.3d 1064 (9th Cir. 2017)
- Dole Food Co. v. Watts, 303 F.3d 1104 (9th Cir. 2002)
- Calder v. Jones, 465 U.S. 783 (1984)
- Murphy v. DirecTV, Inc., 724 F.3d 1218 (9th Cir. 2013)
- Connor v. Great Western Savings & Loan Association, 447 P.2d 609 (Cal. 1968)
- Holtz v. United Plumbing & Heating Co., 319 P.2d 617 (Cal. 1957)
- Ramirez v. Long Branch Unified School District, 129 Cal. Rptr. 2d 128 (Cal. Ct. App. 2002)
- Pakfood Public Co. v. United States, 724 F. Supp. 2d 1327 (Ct. Int'l Trade 2010)
- Steele v. Bulova Watch Co., 344 U.S. 280 (1952)
- Vaughan v. Aegis Communications Group, 49 F. Supp. 3d 613 (W.D. Mo. 2014)
- Rotkiske v. Klemm, 140 S. Ct. 355 (2019)
- National Federation of Independent Business v. Sebelius, 567 U.S. 519 (2012)
- Mayview Corp. v. Rodstein, 620 F.2d 1347 (9th Cir. 1980)
- Erickson Productions, Inc. v. Kast, 921 F.3d 822 (9th Cir. 2019)
- Broussard v. University of California, 192 F.3d 1252 (9th Cir. 1999)
- Walton v. U.S. Marshals Service, 492 F.3d 998 (9th Cir. 2007)
- Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993)
- British Airways Board v. Boeing Co., 585 F.2d 946 (9th Cir. 1978)
- Ahanchian v. Xenon Pictures, Inc., 624 F.3d 1253 (9th Cir. 2010)

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