

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Medallion TV Enterprises, Inc. v. SelecTV of California, Inc.

627 F. Supp. 1290 (C.D. Cal. 1986) · No. CV 82-5195 PAR (MCx) · Decided January 31, 1986

SUMMARY

The United States District Court for the Central District of California granted defendants' motion for summary judgment in a civil RICO and state-law action arising from a failed joint venture to televise the Ali-Berbick heavyweight prizefight. The court held that the alleged predicate acts, even if proved, constituted a single criminal episode and therefore did not establish the continuity required for a RICO pattern. The court also concluded that the civil RICO conspiracy claim required overt acts causing injury under 18 U.S.C. § 1964(c).

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Rymer, District Judge
JURISDICTION	California
DECIDED	January 31, 1986
DOCKET	CV 82-5195 PAR (MCx)
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for summary judgment, effectively seeking reconsideration of the court's prior denial of summary judgment in light of <i>Sedima, S.P.R.L. v. Imrex Co.</i> and <i>Allington v. Carpenter</i> .
STANDARD OF REVIEW	Summary judgment is appropriate when, viewing the evidence in the light most favorable to the nonmoving party, there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Purely speculative factual issues do not require trial.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority within the Ninth Circuit and not binding appellate precedent.
PARTIES	Medallion TV Enterprises, Inc., John Ettlinger v. SelecTV of California, Inc., James LeVitus, Lionel Schaan, Richard Kulis

TOPICS

summary judgment

commercial litigation

civil procedure

statutory interpretation

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PRACTICE AREAS

commercial litigation

civil procedure

RICO

federal jurisdiction

QUESTIONS PRESENTED

1. Whether the alleged telephone calls and transfer of letters of credit constituted a pattern of racketeering activity under 18 U.S.C. §§ 1962(b) and (c).
2. Whether plaintiffs could maintain a private civil RICO conspiracy claim under 18 U.S.C. § 1962(d) without proving a pattern of racketeering activity and overt acts causing injury.
3. Whether the court retained pendent jurisdiction over the state-law claims after granting summary judgment on the federal RICO claims.

HOLDINGS

1. The alleged predicate acts, even if proved, did not establish a pattern of racketeering activity because they arose from one criminal episode involving a single fraudulent scheme.
2. A private civil RICO conspiracy claim requires at least one or more overt acts causing injury to the plaintiff's business or property, and the alleged conspiracy must concern a pattern of racketeering activity; plaintiffs presented no evidence creating a genuine issue on those requirements.
3. After granting summary judgment on all federal RICO claims, the court declined to exercise pendent jurisdiction over the state-law claims and dismissed them without prejudice.

KEY QUOTATIONS

"It is the factor of "continuity plus relationship" that combines to produce a pattern." (627 F. Supp. at 1295-96)

"The word "pattern" connotes a multiplicity of events: Surely the continuity inherent in the term presumes repeated criminal activity, not merely repeated acts to carry out the same criminal activity." (627 F. Supp. at 1297)

"Without overt acts causing injury, there is no cause of action under 18 U.S.C. § 1964(c) for violation of 18 U.S.C. § 1962(d)." (627 F. Supp. at 1300-01)

FACTUAL BACKGROUND

Plaintiffs and defendants sought television rights to the December 1981 Ali-Berbeck prizefight and formed a joint venture, Medsel, to acquire and exploit those rights. Plaintiffs alleged that defendants used fraudulent telephone calls and mail-related conduct to induce Ettlinger to transfer letters of credit to finance the telecast. The venture performed poorly, and both sides lost money. Plaintiffs sued under RICO and state law, alleging that the communications and transfer constituted predicate acts of racketeering.

PROCEDURAL HISTORY

Plaintiffs filed a civil RICO action and related state-law claims arising from a joint venture to acquire and televise the Ali-Berbeck heavyweight prizefight. The court previously denied defendants' summary-judgment motion, finding factual issues concerning alleged predicate acts and a scheme to defraud. On renewed summary judgment, the court held that the alleged acts did not constitute a RICO pattern and that plaintiffs lacked a viable civil RICO conspiracy claim; it granted summary judgment on the federal claims and dismissed the pendent state claims without prejudice.

DISPOSITION

other

CASES CITED

- Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479, 105 S. Ct. 3275, 87 L. Ed. 2d 346 (1985)
- United States v. Turkette, 452 U.S. 576, 583, 101 S. Ct. 2524, 69 L. Ed. 2d 246 (1981)
- Rae v. Union Bank, 725 F.2d 478, 481 (9th Cir. 1984)
- United States v. Tillett, 763 F.2d 628, 632 (4th Cir. 1985)
- United States v. Riccobene, 709 F.2d 214, 221-24 (3d Cir. 1983)
- United States v. Bledsoe, 674 F.2d 647, 665 (8th Cir. 1982)
- United States v. Bagaric, 706 F.2d 42, 55 (2d Cir. 1983)
- United States v. Weinstein, 762 F.2d 1522, 1536-37 (11th Cir. 1985)
- Tarasi v. Dravo Corp., 613 F. Supp. 1235, 1237 (W.D. Pa. 1985)
- United States v. Stofsky, 409 F. Supp. 609, 614 (S.D.N.Y. 1973), aff'd, 527 F.2d 237 (2d Cir. 1975)
- Northwest Trust Bank/O'Hare v. Inryco, Inc., 615 F. Supp. 828, 831-33 (N.D. Ill. 1985)
- United States v. Moeller, 402 F. Supp. 49, 57-58 (D. Conn. 1975)
- Exeter Towers Associates v. Bowditch, 604 F. Supp. 1547, 1554 (D. Mass. 1985)
- United States v. Carter, 721 F.2d 1514, 1529 (11th Cir. 1984)
- United States v. Alonso, 740 F.2d 862, 871-72 (11th Cir. 1984)
- United States v. Coia, 719 F.2d 1120, 1124 (11th Cir. 1983)
- Singer v. United States, 323 U.S. 338, 340-42, 65 S. Ct. 282, 89 L. Ed. 285 (1945)
- Nash v. United States, 229 U.S. 373, 378, 33 S. Ct. 780, 57 L. Ed. 1232 (1913)
- United States v. Rodriguez, 546 F.2d 302, 306 (9th Cir. 1976)
- Iannelli v. United States, 420 U.S. 770, 777-79, 95 S. Ct. 1284, 43 L. Ed. 2d 616 (1975)
- Callanan v. United States, 364 U.S. 587, 593, 81 S. Ct. 321, 5 L. Ed. 2d 312 (1961)
- Kajtazi v. Kajtazi, 488 F. Supp. 15, 21 (E.D.N.Y. 1978)
- Pacific Telephone & Telegraph Co. v. MCI Telecommunications Corp., 649 F.2d 1315, 1319 (9th Cir. 1981)
- Rose Hall, Ltd. v. Chase Manhattan Overseas Banking Corp., 494 F. Supp. 1139, 1160 (D. Del. 1980)
- Winckler & Smith Citrus Products Co. v. Sunkist Growers, Inc., 346 F.2d 1012, 1014 n.1 (9th Cir. 1965)
- Pocahontas Supreme Coal Co. v. National Mines Corp., 90 F.R.D. 67, 74 (S.D.N.Y. 1981)

- Davies v. Carnation Co., 352 F.2d 393, 396-97 (9th Cir. 1965)
- United Mine Workers v. Gibbs, 383 U.S. 715, 725, 86 S. Ct. 1130, 16 L. Ed. 2d 218 (1966)
- Exxon Corp. v. F.T.C., 663 F.2d 120, 128 (D.C. Cir. 1980)
- Zweig v. Hearst Corp., 521 F.2d 1129, 1135-36 (9th Cir. 1975)

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