

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Reynaldo Gonzalez v. Google LLC

No. 18-16700, United States Court of Appeals for the Ninth Circuit (January 3, 2022)

SUMMARY

The Ninth Circuit denied rehearing en banc, leaving intact the panel's affirmance of dismissal of plaintiffs' Anti-Terrorism Act claims against Google. The panel held that most claims were barred by Section 230 of the Communications Decency Act, and the remaining claims failed to state a claim. Judge Gould dissented from the denial, reiterating his earlier panel dissent.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Ronald M. Gould; Marsha S. Berzon; Morgan Christen
JURISDICTION	Federal
DECIDED	January 3, 2022
DOCKET	18-16700
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from district court dismissal; petition for panel rehearing and rehearing en banc denied.
PRECEDENTIAL VALUE	Published
PARTIES	Reynaldo Gonzalez, Estate of Nohemi Gonzalez, Beatriz Gonzalez, Jose Hernandez, Rey Gonzalez, Paul Gonzalez v. Google LLC

TOPICS

appellate procedure

civil procedure

statutory interpretation

KEY QUOTATIONS

"I respectfully dissent from denial of rehearing en banc for the reasons stated in my panel opinion dissenting in part in Gonzalez v. Google LLC, 2 F.4th 871, 918–52 (9th Cir. 2021)."

FACTUAL BACKGROUND

Plaintiffs, family members of victims of a 2015 terrorist attack in Paris, sued Google under the Anti-Terrorism Act, alleging that Google's YouTube platform recommended videos from ISIS, thereby aiding and abetting

international terrorism.

PROCEDURAL HISTORY

The district court dismissed plaintiffs' action under the Anti-Terrorism Act. The panel affirmed the dismissal, holding that most claims were barred by § 230 of the Communications Decency Act and plaintiffs otherwise failed to state a claim. The panel issued its opinion at 2 F.4th 871 (9th Cir. 2021). Plaintiffs petitioned for rehearing and rehearing en banc, which this order denies.

DISPOSITION

other

OPINION

PER CURIAM.

FOR PUBLICATION UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
REYNALDO GONZALEZ; THE ESTATE No. 18-16700 OF NOHEMI GONZALEZ; BEATRIZ GONZALEZ, Individually and as D.C. No. Administrator of the Estate of 4:16-cv-03282- Nohemi Gonzalez; JOSE DMR HERNANDEZ; REY GONZALEZ; PAUL GONZALEZ, Plaintiffs-Appellants, ORDER v. GOOGLE LLC, Defendant-Appellee. Filed January 3, 2022 Before: Ronald M. Gould, Marsha S. Berzon, and Morgan Christen, Circuit Judges.

Order; Dissent by Judge Gould 2 GONZALEZ V. GOOGLE SUMMARY* Anti-Terrorism Act
The panel filed an order denying a petition for panel rehearing and denying, on behalf of the court, a petition for rehearing en banc in an appeal in which the panel affirmed the district court's dismissal of an action under the Anti- Terrorism Act on the grounds that most of the plaintiffs' claims were barred under § 230 of the Communications Decency Act, and plaintiffs otherwise failed to state a claim.

Dissenting from the denial of rehearing en banc, Judge Gould wrote that he dissented for the reasons stated in his panel opinion dissenting in part. COUNSEL Keith Altman (argued) and Daniel W. Weininger (argued), Excolo Law, Southfield, Michigan, Plaintiff-Appellant Reynaldo Gonzalez. Robert J. Tolchin (argued) and Meir Katz, Berkman Law Office LLC, Brooklyn, New York; for Plaintiffs-Appellants Estate of Nohemi Gonzalez; Beatriz Gonzalez, Jose Hernandez, Rey Gonzalez, and Paul Gonzalez. * This summary constitutes no part of the opinion of the court.

It has been prepared by court staff for the convenience of the reader. GONZALEZ V. GOOGLE 3
Brian M. Willen (argued), Wilson Sonsini Goodrich & Rosati, New York, New York; David H. Kramer, Lauren Gallo White, and Kelly M. Knoll, Wilson Sonsini Goodrich & Rosati, Palo Alto, California; Steffen N. Johnson and Paul N. Harold, Wilson Sonsini Goodrich & Rosati, PC, Washington, D.C.; for Defendant-Appellee.

Aaron Mackey and Sophia Cope, Electronic Frontier Foundation, San Francisco, California, for Amicus Curiae Electronic Frontier Foundation. Brian J. Dunne, Bathaee Dunne LLP, Los Angeles, California; Yavar Bathaee, Bathaee Dunne LLP, New York, New York; for Amicus Curiae Artificial Intelligence Law and Policy Institute. 4 GONZALEZ V. GOOGLE ORDER Judge Gould and Judge Berzon have voted to grant Plaintiffs-Appellants' petition for rehearing and rehearing en banc, and Judge Christen has voted to deny the petition for rehearing and rehearing en banc.

The full court was advised of the petition for rehearing en banc. A judge requested a vote on whether to rehear the matter en banc. The matter failed to receive a majority of the votes of the nonrecused active judges in favor of en banc consideration. See Fed. R. App. P. 35. Judges Wardlaw, Collins, Bress, and Koh did not participate in the deliberations or vote in this case.

The petition for rehearing and rehearing en banc (Dkt. 87, 88) is DENIED. Judge Gould's dissent from the denial of rehearing en banc is filed concurrently with this order. GOULD, Circuit Judge, dissenting from denial of rehearing en banc: I respectfully dissent from denial of rehearing en banc for the reasons stated in my panel opinion dissenting in part in *Gonzalez v. Google LLC*, 2 F.4th 871, 918–52 (9th Cir.

2021).