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## **COURT BARS USE OF U.S. COURTS TO ASSERT CLAIMS LACKING NEXUS TO U.S. (Mother Doe v. Sheikh Hamdan)**

A federal district court in Lexington, Kentucky this week dismissed a lawsuit filed by human rights activists, declining to permit them to use U.S. courts as a platform for asserting international law claims that bear no relation to the United States. The court held that the plaintiffs had failed to establish personal jurisdiction over the defendants, all of whom live in the United Arab Emirates.

The decision was a victory for the Washington Legal Foundation (WLF), which filed a brief urging dismissal of the case, *Mother Doe v. Sheikh Hamdan*. WLF argued that federal court intervention in overseas activities is particularly inappropriate when, as here, the case raises sensitive foreign policy considerations. Noting that the principal defendant in the suit is a senior official in the UAE government, WLF argued that the issues raised by the plaintiffs ought to be handled within the UAE -- given that no Americans are involved in the suit and all the events described took place overseas.

One of the defendants is a major shareholder of a corporation that owns a large horse farm in Kentucky, and he occasionally visits Kentucky -- such as to attend the Kentucky Derby each May. But the court held that those facts were insufficient to establish the "minimum contacts" that an individual must have with a State before he can be haled into that State's courts to defend lawsuits whose factual allegations have no nexus to the State. The well-known plaintiffs' lawyers who represented the plaintiffs in this case are zero-for-two in attempts to obtain personal jurisdiction over the defendants in an American court. In 2007, a federal district court in Florida dismissed a nearly identical lawsuit, a dismissal that also was based on lack of personal jurisdiction.

The plaintiffs sought relief under the Alien Tort Statute (ATS), a law that grants federal courts jurisdiction to hear tort claims alleging violations of "the law of nations." Much of WLF's brief was devoted to challenging the plaintiffs' ATS claims. WLF argued that when it adopted the ATS in 1789, Congress never intended to assign federal courts the role of policing alleged human rights violations throughout the world. Because of its finding that it lacked personal jurisdiction over the defendants, the court did not need to reach WLF's ATS arguments.

"The ATS was adopted in 1789 to allow the federal courts to hear cases involving piracy and assaults on ambassadors," said WLF Chief Counsel Richard Samp following dismissal of the lawsuit. "It has been transformed by activist attorneys into a tool for second-guessing American foreign policy and for challenging overseas conduct of which they do not approve. The federal courts need to step in to bring a halt to this perversion of the ATS," Samp said.

This case involved allegedly oppressive working conditions within the camel racing industry in Middle East countries. The suit alleged that the industry in the past recruited young boys from Pakistan and other Muslim countries to work as jockeys, and then held them in dangerous and slave-like conditions for little or no pay. The plaintiffs (several former jockeys and their family members) alleged that the defendants -- including a man who serves as the Finance Minister of the UAE and the Deputy Ruler of Dubai -- actively participated in the camel racing industry and were aware of the mistreatment of child jockeys.

In fact, as the plaintiffs concede, the UAE has taken significant steps both to eliminate use of children as jockeys and to repatriate and compensate past victims of abusive labor practices. Working in conjunction with UNICEF (the United Nations Children's Fund), the UAE has established the UAE Program, which to date has resulted in the repatriation of more than 1,000 children. The plaintiffs nonetheless insist that they should be entitled to sue for punitive damages in U.S. courts under the ATS, based on alleged violations of international law.

In its brief, WLF also argued that the case should be dismissed under the doctrine of international comity. WLF argued that where, as here, the issues raised in a lawsuit are already being addressed by a forum located in the country in which those issues arose, comity requires U.S. courts to abstain from adjudicating those same issues. WLF noted that the U.S. government has endorsed the UAE Program as a means of resolving this issue, and that the federal courts should not risk undermining that program -- as well as endangering U.S. relations with a key foreign ally -- by jumping into a dispute with no connection to the United States.

WLF is a public interest law and policy center with supporters nationwide. WLF devotes a substantial portion of its resources to opposing expansive private rights of action under the ATS because such litigation generally seeks (inappropriately, in WLF's view) to incorporate large swaths of international law into the domestic law of the U.S.

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For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302. A copy of WLF's brief is posted on its website, [www.wlf.org](http://www.wlf.org).