

Case Summary: *Smith & Wesson Brands, Inc., et al v. Estados Unidos Mexicanos*, No. 23-1141 (U.S. June 5, 2025)

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(The views expressed are those of the author and do not necessarily represent the position of the Clemson Law Review or its leadership.)

In 2021, the Mexican Government filed a lawsuit against seven American firearm manufacturers, claiming that the companies' negligent distribution led to cartel-related gun violence.¹ The government argued that the manufacturers were responsible for this violence due to the fact that around "90% of the guns recovered at crime scenes" were American-made.² Mexico also accused the defendants of promoting products that appealed to cartel members, such as the "El Jefe," "El Grito," and "Emiliano Zapata 1911" pistols,³ military-grade weapons like a "50. caliber long range sniper rifle," and firearms with defaceable serial numbers.⁴

The Protection of Lawful Commerce in Arms Act (PLCAA) generally

¹ *Smith & Wesson Brands, Inc., et al v. Estados Unidos Mexicanos*, No. 23-1141 slip op. at 3 (U.S. June 5, 2025).

² *Id.* at 3 ("[The defendants included] Smith & Wesson Brands, Inc.; Barrett Firearms Manufacturing, Inc.; Beretta USA Corp.; Century International Arms, Inc.; Colt's Manufacturing Company, LLC; Glock, Inc.; and Sturm, Ruger & Co., Inc. [Also,] Witmer Public Safety Group, Inc., [or] Interstate Arms [was named in the suit.]").

³ *Id.* at 6 ("And the manufacturers produce firearms whose names or aesthetic features appeal to cartel members. Colt, for example, makes the '.38 caliber Super 'El Jefe' pistol; the .38 caliber Super 'El Grito' pistol; and the .38 caliber 'Emiliano Zapata 1911' pistol—the last of which includes Zapata's image and the words 'It is better to die standing than to live on your knees.'").

⁴ *Id.* at 6 ("Mexico says, the manufacturers make guns whose serial numbers can be 'obliterated or defaced,' thus hindering police tracing efforts.").

safeguards firearm manufacturers from being held liable for third-party misuse.⁵ However, the law contains a predicate exception that allows for a suit if a sale “knowingly violated” the law and subsequently resulted in harm.⁶ To meet the PLCAA’s requirements, it must be proven that a manufacturer aided and abetted another’s firearm misuse. The two ways to meet this requirement include when a distributor assists third-party misuse by “making a false statement about a gun sale’s legality or . . . making specified criminal sales.”⁷ To win the case, the Mexican Government needed to prove that American manufacturers knowingly violated regulations and purposefully sold firearms to cartel-affiliated dealers.

At first, the U.S. District Court of Massachusetts dismissed the case on the grounds that the PLCAA protected the manufacturers against a suit. In response, the U.S. Court of Appeals for the First Circuit reversed the lower court decision and found that the Mexican Government had plausibly alleged that defendants did aid and abet illicit firearm dealings. The First Circuit’s reversal made it more likely that the case would reach the U.S. Supreme Court, and in June 2025, the Court unanimously reversed the Court of Appeals’ decision. Justice Kagan delivered the majority opinion, citing two examples of previous rulings that precisely defined when companies could be held liable for third-party misconduct. In *Twitter, Inc. v. Taamneh*, 598 U.S. 471 (2023), the Court clarified that to meet the exception, the

⁵ *Id.* at 1 (“[The statute] bars certain lawsuits against manufacturers and sellers of firearms. Congress enacted the statute in response to a spate of litigation trying to hold gun companies liable in tort for harms “caused by the misuse of firearms by third parties, including criminals.”).

⁶ *Id.* at 2.

⁷ *Id.* at 2.

defendant must have shown misfeasance rather than nonfeasance towards third-party activities.⁸ In other words, a suit cannot simply be based on a lack of action but must center around an intentionally illicit action.

Justice Kagan also cited *Direct Sales Co. v. United States*, 319 U.S. 703 (1943), where aiding and abetting did apply, and a company was held liable. In that case, the Court ruled that “[a] mail-order pharmacy could be convicted for assisting” in the small-scale illegal distribution of drugs.⁹ The basis of the Supreme Court’s decision was that the pharmacy supplied excessive amounts of morphine, and did so after a warning from federal authorities.¹⁰ If the firearms manufacturers acted similarly, a suit could have proceeded. The *Direct Sales* decision was due to the case “[involving] aid [being] given to a single named offender in violating a specified narcotics law.”¹¹ However, as Justice Kagan suggested, this situation did not apply to American manufacturers in *Smith & Wesson* because they did not violate any statutes and were not directly linked to cartel-related gun violence.¹²

Justice Kagan also dismissed claims of targeted marketing through

⁸ *Id.* at 9 (“The plaintiffs, victims of the attack, alleged that adherents of ISIS used [Twitter’s] platforms for recruiting and fundraising. [They] further asserted that the [defendant] knew that [,] yet failed to [remove harmful content.] But we held that was not enough to make the companies liable for ISIS’s terrorist acts. [Their] relationship with ISIS and its supporters, we reasoned, was “the same as their relationship [all of its] other users: arm’s length, passive, and largely indifferent.”).

⁹ *Id.* at 8.

¹⁰ *Id.* at 8–9 (“And it did all that against the backdrop of law enforcement warnings: The Bureau of Narcotics had informed Direct Sales that “it was being used as a source of supply” by lawbreaking doctors.”).

¹¹ *Id.* at 11.

¹² *Id.* at 10 (“Viewed against the backdrop of [the PLCAA], Mexico’s complaint does not plausibly allege that the defendant manufacturers aided and abetted gun dealers’ unlawful sales of firearms to Mexican traffickers. We have little doubt that, as the complaint asserts, some such sales take place—and that the manufacturers know they do.”).

military-grade weapons, which are legal and widely popular in the United States.¹³ In addition, products “with Spanish-language names or graphics” could not be seen as being exclusively advertised to cartel members, since “millions of law-abiding Hispanic Americans” purchase them as well.¹⁴ Therefore, the conduct of American manufacturers did not satisfy the PLCAA’s predicate exception. Simple inaction towards third-party firearm misuse was not enough to allow for a suit, as intended by the PLCAA.¹⁵

Justices Thomas and Jackson filed concurring opinions. Justice Thomas advised that lower courts should not accept similar cases going forward. Under the PLCAA, a suit must “[have] a plausible allegation that a defendant has committed [a violation],” and also “an earlier finding of guilt or liability in an adjudication regarding [it].”¹⁶ In other words, to satisfy the predicate exception, a very specific set of circumstances must be met. If not, as Justice Thomas insists, courts should not consider suits similar to *Smith & Wesson*. Justice Jackson agreed with the majority’s arguments and further demonstrated how the defendants’ actions did not meet the exception.¹⁷ Jackson also connected the suit to the PLCAA’s broader purpose: to protect American firearm manufacturers from a flood of third-party

¹³ *Id.* at 14.

¹⁴ *Id.* at 14.

¹⁵ *Id.* at 15 (“Congress explained that [the statute] was meant to stop those suits—to prevent manufacturers (and sellers) from being held ‘liable for the harm caused by those who criminally or unlawfully misuse firearm[s].’ §7901(a)(5). Mexico’s suit closely resembles the ones Congress had in mind[.]”).

¹⁶ *Id.* at 1 (Thomas, J., concurring).

¹⁷ *Id.* at 2–3 (Jackson, J., concurring). (“All that Mexico alleges here is that firearms-industry-wide practices—though lawful on their own—facilitated dealers’ unspecified downstream violations. Mexico does not tether its claims to alleged statutory breaches. [Also,] it [does not] identify the dealers who would be the principals for any underlying statutory violations.”).

litigation suits.¹⁸ The statute also intended to place gun control under the purview of legislation, not litigation. The Supreme Court confirmed this principle with its decision.

The Court's unanimous decision reaffirmed existing regulations on third-party liability. The decision also confirmed the PLCAA's intended purpose: to protect American firearm manufacturers and sellers from these types of suits. In doing so, the Court conceded firearm-related regulation to Congress and its legislative capabilities. As a result, future plaintiffs are less likely to bring forth firearm-related suits when considering the strict predicate exception parameters set by Justice Thomas. Thus, on the topic of gun-related liability the Supreme Court has made it clear—it is an issue for Congress to decide.

¹⁸ *Id.* at 1 (Jackson, J., concurring).