

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 a recent ruling, the United States Supreme Court addressed the extent to which a weapons' manufacturer or retailer can be held liable for consumers' misuse of their product. The Supreme Court overturned the First Circuit's decision which allowed a lawsuit against a firearms manufacturer to move forward despite the broad immunity granted by the Protection of Lawful Commerce in Arms Act (PLCAA). The PLCAA provides protections for companies in the event of later weapon misuse "by third parties, including criminals."¹

In August of 2021, the federal government of Mexico filed an initial lawsuit against Smith & Wesson Brands, Inc., and seven other U.S.-based firearm manufacturers, alleging that these companies had aided and abetted criminal activity through the sale of weapons to Mexican drug cartels, thus facilitating violence in their country. Mexico was seeking redress for the "severe gun violence" within its borders that it believed originated in the United States due to the fact

¹ *Smith & Wesson Brand, Inc., et al. v. Estados Unidos Mexicanos*, No. 23-1141, slip op. at 1 (U.S. June 5, 2025) ("According to the Mexican Government, as many as 90% of the guns recovered at crime scenes in Mexico originated in the United States.").

that ninety percent of firearms recovered at crime scenes in Mexico had been manufactured and sold by American companies.² Because Mexico’s level of firearms production does not have the capacity to satisfy consumer demand, firearms are often smuggled illegally over the border from the U.S. where they are more accessible.³ Thus, the question arose as to whether U.S. manufacturers and retailers could be held liable, under the doctrine of proximate causation, for domestically produced and distributed firearms that are ultimately trafficked to Mexican drug cartels.⁴ In 2022, the United States District Court for the District of Massachusetts dismissed the case under the PLCAA.⁵ Mexico appealed to the U.S. Court of Appeals for the First Circuit, which then overturned the District Court’s ruling, allowing the suit to proceed.

The PLCAA bars any civil liability action from being heard in any federal or state court⁶ and explicitly defines the term to encompass any “civil action or proceeding” against any firearm manufacturer or retailer originating from “the criminal or unlawful misuse” of a product by “a third party.”⁷ The argument against

² *Id.* at 1.

³ *Id.* at 1 (“The country has only a single gun store, and issues fewer than 50 gun permits each year. But gun traffickers can purchase firearms in the United States—often in illegal transactions—and deliver them to drug cartels in Mexico.”).

⁴ *Id.* at 7 (“Because Mexico relies exclusively on an aiding-and-abetting theory, [Mexico must plausibly allege] that the manufacturers have aided and abetted gun dealers’ firearms offenses (such as sales to straw purchasers), so as to *proximately cause* harm to Mexico.”) (emphasis added).

⁵ *Id.* at 1 (“The Protection of Lawful Commerce in Arms Act (PLCAA) bars certain lawsuits against manufacturers and sellers of firearms.”).

⁶ *Id.* at 1 (citing 15 U. S. C. §7902(a)) (“...qualified civil liability action . . . may not be brought in any Federal or State court.”).

⁷ *Id.* at 1 (citing §7903(5)(A)) (“...defines that term to include a “civil action or proceeding” against a firearms manufacturer or seller stemming from “the criminal or unlawful misuse” of a firearm by “a third party...”).

Smith & Wesson, et al. relied upon the “predicate exception,” for which conditions and immunities are specifically outlined by the PLCAA.⁸ The predicate exception allows civil suits to be brought against gun manufacturers and intermediaries on the grounds that they “knowingly violated a State or Federal statute applicable to the sale or marketing” of firearms, and that the “violation was a proximate cause of the harm for which relief is sought.”⁹ Essentially, Mexico argued that these companies violated gun sale laws by intentionally selling dangerous weapons without exercising “reasonable care” as required by both federal and state sales regulations.¹⁰ These brands were accused of several violations of these regulations including “supply[ing] firearms to retail dealers whom they know illegally sell to Mexican gun traffickers,” “fail[ing] to impose the kind of controls on their distribution networks that would prevent illegal sales to Mexican traffickers,” and “mak[ing] ‘design and marketing decisions’ intended to stimulate cartel members’ demand for their products.”¹¹

In June of 2025, the U.S. Supreme Court overturned the First Circuit’s ruling

⁸ *Id.* at 1 (“PLCAA itself lists as examples two ways in which aiding and abetting qualifies—when a gun manufacturer (or seller) aids and abets another person in making a false statement about a gun sale’s legality or in making specified criminal sales.”).

⁹ *Id.* at 1 (citing §7903(5)(A)(iii)) (“That exception applies to lawsuits in which the defendant manufacturer or seller ‘knowingly violated a State or Federal statute applicable to the sale or marketing’ of firearms, and the ‘violation was a proximate cause of the harm for which relief is sought.’”).

¹⁰ *Id.* at 1 (“The basic theory is that the defendants failed to exercise “reasonable care” to prevent trafficking of their guns into Mexico, and so are responsible for the harms arising there from the weapons’ misuse.”).

¹¹ *Id.* at 1 (“The manufacturers allegedly (1) supply firearms to retail dealers whom they know illegally sell to Mexican gun traffickers; (2) have failed to impose the kind of controls on their distribution networks that would prevent illegal sales to Mexican traffickers; and (3) make ‘design and marketing decisions’ intended to stimulate cartel members’ demand for their products.”).

and barred the suit from continuing under the PLCAA, stating that these companies had not knowingly sold their products for the purpose of facilitating crime or violence.¹² Justice Kagan delivered the Court’s opinion, holding that the complaint from Mexico did not sufficiently clear the bar on civil proceedings set by the PLCAA because no specific illegal transactions had been discovered or proved. All accusations were alleged and based only on the fact that the violent individuals were in possession of a firearm of a particular brand. In response to several alleged regulatory violations, the Court elaborated on why each was not sufficiently supported. The design of the firearm being characteristically militaristic can be appealing to a wide range of demographics, not only those participating in illegal activities. Additionally, an “indifference” towards routine trafficking violators is not a proper claim,¹³ as indifference is different from assistance.

Justice Thomas and Justice Jackson both provided concurring opinions. Justice Thomas wrote separately to identify the condition under the predicate exception—that a defendant’s explicit violation must be proven to fall outside of the PLCAA’s immunity—which Mexico did not establish.¹⁴ Thus, the plaintiff’s argument was not sound. Justice Thomas also argued that future cases should explore the meaning of “violation” and its relation to the PLCAA’s regulations

¹² *Id.* at 1 (“To aid and abet a crime, a person must take an affirmative act in furtherance of the offense and intend to facilitate its commission...”).

¹³ *Id.* at 1 (“Mexico focuses on production of “military style” assault weapons, but these products are widely legal and purchased by ordinary consumers...Mexico’s plausible allegations are of “indifferen[ce],” rather than assistance.”).

¹⁴ *Id.* at 1 (“I agree. I write separately to note that the Court’s opinion does not resolve what a plaintiff must show to establish that the defendant committed a “violation.”).

regarding findings of guilt or liability, in addition to allegations.¹⁵

Justice Jackson elaborated on his agreement through the fact that Mexico failed to identify specific breaches of gun sale law by any one company and included only nonconclusory evidence for the violation claims. Only “downstream violations” were committed, removing the defendants from liability at that stage of the transaction and placing the responsibility on the individual.¹⁶

The future of the gun control debate will be significantly affected by the Supreme Court’s ruling in *Smith & Wesson, Brands, Inc. et al v. Estados Unidos Mexicanos*. The provisions of the PLCAA grant manufacturers and retailers immunity that cannot be breached by civil litigation without significant evidence of a “knowing violation.” This decision may implicate additional questions, including whether it is within the federal government’s power to regulate gun sales in a manner that makes it difficult for them to be legally obtained. Courts have held that companies generally cannot be held liable for violence carried out by third parties using their products. Therefore, this decision is applicable to future cases involving specific third-party violations and the liability associated with the originating producer, raising questions regarding sales regulations and due diligence on reasonable care.

¹⁵ *Id.* at 1 (Thomas, J., concurring) (“In future cases, courts should more fully examine the meaning of ‘violation’ under the PLCAA. It seems to me that the PLCAA at least arguably requires not only a plausible *allegation* that a defendant has committed a predicate violation, but also an earlier *finding* of guilt or liability in an adjudication regarding the violation.”) (emphasis in original).

¹⁶ *Id.* at 1 (“I agree. I write separately to explain that, in my view, the complaint’s core flaw is its failure to allege any nonconclusory statutory violations in the first place.”).