

## Putting Terror Out Of Business

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Nitsana Darshan-Leitner is an Israeli lawyer who argues that there is no such thing as The Lone Wolf terrorist. The Lone Wolf depends upon substantial financial resources of the terrorist groups which recruit them, encourage their murderous ways, and teach them the craft necessary to take down Western society. Saudi Arabian groups financed 9/11, and every attack anywhere in the world by a terrorist-affiliated soldier depends upon a financial pipeline.

Enter the remarkable and almost forgotten case of *Sokolow v. Palestine Liberation Organization*. As a result of homicide attacks on Americans by the Palestine Liberation Organization (“PLO”), Congress passed the Anti-Terrorism Act of 1992. The law created a legal remedy for U.S. nationals “injured...by reason of an act of international terrorism.” 18 U.S.C. § 2333(a). Sokolow and others sued the Palestine Authority and the PLO under the Anti-Terrorism Act marshaling strong and convincing evidence. A jury in the Southern District of New York returned a verdict for the plaintiffs. However, the United States Court of Appeals for the Second Circuit vacated the judgment, stating that the Palestinian Authority and PLO are “persons” protected by the Fifth Amendment’s Due Process Clause. The principles, said the Court, which are enunciated in the Due Process Clause, allegedly bar federal courts from asserting personal jurisdiction over the defendant terrorist organizations for the acts of international terrorism. Reason: The attacks were not “sufficiently connected to the United States.”

The victims of international terrorism have filed a Petition for Writ of Certiorari, asking the United States Supreme Court to review this Quixotic ruling by the Second Circuit.

Justice Ginsburg, of the United States Supreme Court, asked the Solicitor General of the United States for his view as to whether the Supreme Court should weigh-in on this question. The “client” of the Solicitor General, who handles all appeals for the United States of America, is the Department of State. Thus far the position of the Solicitor General has not been formally provided to the United States Supreme Court.

However, others have supported the Petition for Writ of Certiorari filed by the families whose loved ones were killed by the terrorists. A brief supporting the Petition of the families has been filed by members of the U.S. House of Representatives, as well as a number of Senators.

While Senator Casey of Pennsylvania signed a letter urging the United States Supreme Court to hear the matter, Senator Toomey has not. Senator Toomey is said not to usually weigh-in on legal matters. Why not? To say that legislators in Congress do not have an interest in

seeing United States laws upheld and enforced simply borders on the absurd, if not the irresponsible.

From a legal perspective, the United States Supreme Court has never equated Fifth Amendment personal jurisdiction standards with those of the Fourteenth Amendment in the manner that the Second Circuit did in *Sokolow*. The Supreme Court has previously indicated that the jurisdiction of federal courts raises different questions than the jurisdiction of state courts under the Fourteenth Amendment. The reach of the federal government is different than the reach of the states. The former federal officials argued that if the Second Circuit decision is not overturned, it would effectively “nullify Congress’s express intent for the ATA to address a ‘gap in...efforts to develop a comprehensive legal response to international terrorism.’” The Fifth Amendment, regardless of how the court rules, still prevents federal courts from exercising personal jurisdiction when it would be unreasonable in circumstances that cause genuine unfairness.

The *Sokolow* matter is closely linked to pending legislation in Congress that would deny the PLO funding so long as it pays “cash for killers.” The same Palestinian Liberation Organization, which now effectively runs the Palestinian Authority on the West Bank of the Jordan River, not only paid for and encouraged the murder of Americans overseas, but continues its nefarious acts through the Palestinian Authority today. Mahmoud Abbas, the leader of the Palestinian Authority, has rejected all calls for his dictatorial regime to stop paying and supporting those who kill innocents in Israel. Even members of the European Union have tried to bar their relief money from being used to pay for murder. These restrictions, however, only free up other money for the Palestinian Authority to use in its war of anti-Semitism against the Jewish people, and its efforts to exclude all Christians from the Middle East. It is crazy, absolutely crazy that one of the largest aid recipients in the world, the Palestinian Authority, brags about the money it utilizes to support murderers. The Taylor Force Act which would alter U.S. funding to the Palestinian authority so long as it pays “cash for killing” is pending in Congress.

It is crucial for *Sokolow* to be heard by the United States Supreme Court not only to vindicate the suffering of the families of American victims of terrorism abroad, but also to assure that the Fifth Amendment of the United States is utilized as it was intended.

In *United States of America v. Odeh, et al.*, the United States Court of Appeals for the Second Circuit affirmed murder convictions entered by the trial court against Odeh and others. These individuals were indicted for their participation in the August 7, 1998 bombings of American Embassies in Kenya and Tanzania, acts of terrorism that resulted in the deaths of 200 people. Why should the result be any different in *Sokolow*, where a civil suit resulted in a plaintiff’s verdict against known murderers who brag about their deeds? Families of the Americans killed abroad in *Sokolow* deserve better.

Unfortunately the White House has been silent on *Sokolow*. Whether its silence is due to the false hope that peace can be imposed in the Middle East or simply because the victims of terrorism were Americans in Israel is unknown. This double standard must be eliminated,

and the funding for terrorist groups, whether they operate as Lone Wolf or based upon the policy structure of that organization, must be severed. Money is the blood of the terrorists. Guns and bombs, and good intelligence will not do the job alone. The funding stream must be cut off at its throat.

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