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Supreme Court Reaction Report: *United States v. Turkette*

*United States v. Turkette* refers to a massively-impactful U.S. Supreme Court decision that took place in the April of 1981. This case focused on clarifying the overwhelming reach of the *Racketeer Influenced and Corrupt Organizations Act*, better known to the majority of American citizens as “RICO”. In short, the *RICO Act* seeks to undue and ward off the stranglehold racketeers often hold over legitimate businesses they deem located within their “territory” or “turf”. In most applications, the *RICO Act* allows for a group of accused persons to be charged with heavier and stiffer penalties when their actions can be proven to have been done in furtherance of the goals of a criminal enterprise.

In particular, this case sought to determine whether the act encompassed only legitimate businesses or also pertained to alleged illegitimate enterprises. At the center of this case was a Massachusetts-born man named Novia Turkette Jr. and twelve additional defendants who found themselves facing *RICO* charges as a result of allegedly participating in a string of serious crimes across the city of Boston and the surrounding suburbs. In court filings, the state contended the group called themselves “*The Turkette Group*” and functioned similar to the traditional Mafia, with the group allegedly being assigned roles and duties within the alleged organized crime network. According to prosecutors, *The Turkette Group* was responsible for carrying out criminal acts such as: narcotics distribution, arson, bribery of police officers/government officials, insurance fraud, and various forms of influence peddling throughout the city of Boston.

While charging the various defendants, the state concluded that not only did the associates act in conspiracy with one another, but that they also each employed nearly the exact same modus operandi when carrying out each criminal act. In an indictment featuring nine counts, Turkette Jr. and his associates were accused of conspiring to “conduct, and participate directly and indirectly, in the conduct of the affairs of (an) enterprise, which would engage in, and the activities of which would affect interstate commerce, through a pattern of racketeering behavior.” Count one charged Turkette and his co-defendants with distribution and possession with the intent to distribute. The second-through-fifth counts accused the group of devising multiple for-profit arson schemes throughout the city of Boston. The sixth and seventh counts of the indictment charged Turkette Jr. and his co-defendant Phillip A. Fraher Jr. with the arson of an automobile and the ensuing insurance fraud of said vehicle. Finally, the ninth count in the indictment was applied to all thirteen defendants, including Turkette, alleging their committing of the aforementioned crimes in furtherance of a criminal enterprise.

The case ultimately went before a jury in Federal District Court, which ruled against the defendants, handing down convictions for each of the group’s associates. Upon receiving this decision, the case was elevated to the U.S. Court of Appeals for the First Circuit, who was charged with taking another look at the lower court’s findings. Upon concluding their review of the case, the U.S. Court of Appeals for the Fifth Circuit opted to go in a different direction than the lower court, reversing the original convictions. The court came to this decision after concluding that in a legal sense, the *RICO Act* should only apply to completely legitimate businesses affected/infiltrated by the actions of racketeers, not persons who are committing solely acts deemed to be “illegitimate business.” In the court’s eyes, many of the associates charged with a conspiracy to violate the *RICO Act*, while guilty of committing said crimes under

the overall letter of the law, did not seek to infiltrate/influence legitimate businesses through their means, instead operating under the concept of their actions being strictly illegitimate/illegal. Upon the U.S. Court of Appeals for the First Circuit's ruling being finalized, the United States Supreme Court identified that the lower court's decision posed a significant legal question and potentially introduced a confusing legal precedent for future courts to deal with. This prompted the court to grant a writ of certiorari; a legal document acting as an agreement for the court to review a lower court's decision.

Finally, in 1981, the case would officially be heard in front of the U.S. Supreme Court in Washington, DC. The government, represented by attorney Mark Irving Levy, contested in their presentation to the court that both the language of the *RICO Act* and its legislative history suggest its application pertains to both legitimate and illegitimate businesses. To help support his argument, Levy cited language directly from the statute, defining an "enterprise" as "any union or group of individuals associated in fact", suggesting such would apply to the defendants in question. Additionally, Levy and the prosecution contended that through the creation of the *RICO Act*, legislators intended to crack down on organized crime as a whole, not simply limiting the Act's application to actions involving legitimate businesses. On the flip side, the man charged with representing the respondent Turkette Jr. was attorney John E. Wall Jr. In his testimony to the court, Wall Jr. contested that the *RICO Act* was created solely to help government agencies pursue and prosecute criminals involved in the infiltration of legitimate businesses, not what he called "standalone criminal groups", of which the latter he considered his client to be. Wall Jr. argued that not only was this a gross misuse of the act's intended purpose, but that the language used within the statute itself was unclear and too broad in nature.

While hearing arguments from both sides, the Justices overseeing the U.S. Supreme Court brought forth plenty of questions conferencing this case's materials. Many of the questions heard during the oral arguments portion of the case were largely textually-based and often concerned the application of regulations in the "real world". The justices frequently asked lawyers of both sides about different "unclear" and "ambiguous" legal jargon they used throughout their case briefs, such as how they defined concepts such as "racketeering activates" and "enterprises". In addition to these types of questions, the justices also asked a number of hypotheticals to both attorneys, with one example being the following: "If five people form a drug-trafficking organization and operate solely illegally, wouldn't that be exactly what Congress meant to target in the creation of this act?".

Upon hearing both arguments and completing their review, the U.S. Supreme Court ultimately opted to rule 5-4 in favor of the petitioner, reversing the previous decision of the Court of Appeals and holding the *RICO Act* does, in fact, encompass illegitimate and legitimate businesses. To make their decision, the court referenced the act's intended purpose and long-standing statutory language.

Having examined the case materials and listened to the associated oral arguments, I can ultimately conclude that the argument presented by attorney Mark Irving Levy and the government's defense team was the strongest and most convincing of the two in this case. Throughout his oral argument, Levy utilizes several particularly effective fact-based strategies, including providing the court with a comprehensive analysis of the statutory language found within the act and its associated legislative history, both of which supported his argument in a strong way. Levy also effectively appealed to the idea of the protection of the public, contesting to the court that ruling in favor of Turkette would essentially undermine the effectiveness of

*RICO* cases in the future, potentially “shielding” or “empowering” organized criminal groups in this country further, thus creating an inherently less-safe environment for citizens. However, perhaps the most effective part of Levy’s testimony was when he proclaimed that under the letter of the *RICO Act*, an “enterprise” and a “pattern of racketeering” should be considered two different distinct elements. By including this in his oral argument, Levy directly countered his opposition’s stance, challenging that requiring an enterprise to be legitimate for the *RICO Act* to pertain to it would “improperly conflate” the two elements. This final strategy employed by Levy was incredibly successful in persuading the court’s justices, and ultimately played a large part in why the court eventually ruled in the government’s favor.

Simply put, the argument put forth by Turkette Jr.’s attorney John E. Wall Jr left a bit to be desired for the defense. To help formulate his argument, Wall Jr. unsuccessfully contested the court that the *RICO Act*’s chief purpose was to prevent the infiltration of legitimate businesses by criminals, not including illegal enterprises such as an organized crime syndicate. Wall Jr. also attempted to dispel the merging of an “enterprise” with a “pattern of racketeering activity”, contending that doing so would “improperly” bind the two together. The court ultimately found Wall Jr.’s argument to be weak-at-best and a misinterpretation of the letter of the law, which the government’s attorney Mark Levy drove home during his testimony. Overall, it’s clear to me that the narrow, structurally-unsound argument put forth by Turkette Jr.’s defense team was ineffective in a number of ways.

Based on the arguments presented in this case, I personally agree with the U.S. Supreme Court’s decision to rule in favor of the government. Ultimately, I came to this conclusion after identifying the government’s argument as being more rooted in facts] and having a historical legal precedent to back it up. In my opinion, while Turkette Jr.’s defense does point to the

ambiguousness of the act's language, it is important to consider the intention behind the act's creation and it's purpose, which Levy and the government's defense team correctly presented.