

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 10-21951-Civ-TORRES

JESUS CABRERA JARAMILLO, in his individual capacity, and in his capacity as the personal representative of the estate of Alma Rosa Jaramillo, Jane Doe, in her individual capacity, and in her capacity as the personal representative of the estate of Eduardo Estrada, and John Doe, in his individual capacity,

Plaintiffs,

v.

CARLOS MARIO JIMENEZ NARANJO, also known as “Macaco,” “El Agricultor,” “Lorenzo Gonzalez Quinch a,” and “Javier Montanez,”

Defendant.

ORDER STAYING ACTION

This matter is before the Court in part upon the Court’s review of the pending motions in the case, including Defendant’s Motion to Dismiss [D.E. 60], as well as a sua sponte review of the record and the development of legal actions involving the Alien Tort Statute, 28 U.S.C. § 1350. For the reasons that follow, absent a compelling showing otherwise, the Court shall stay this action pending resolution of a dispositive or potentially dispositive issue in a pending case on appeal to the Supreme Court, *Kiobel v. Royal Dutch Petroleum Co.*, No. 10-1491 (U.S.).

Though neither party has raised a subject matter jurisdiction challenge in this case, the Supreme Court has recently granted certiorari in a case that involved application of the Alien Tort Statute to corporate defendants from a case emanating from the Second Circuit and, in apparent acceptance of an invitation by the respondent in the case, directed to parties to re-brief and re-argue the case on the additional question of whether “and under what circumstances the Alien Tort Statute, 28 U.S.C. §1350, allows courts to recognize a cause of action for violations of the law of nations occurring within the territory of a sovereign other than the United States.” *Id.*, 565 U.S. at ___ (U.S. Mar. 5, 2012).

Having now reviewed the oral argument that led to this supplemental Order, as well as the authorities cited on the issue in *Kiobel*, the Court is left with a strong impression that the Supreme Court may decide the question in the respondents’ favor on the broader question of extraterritoriality of the statute. *See, e.g., Sosa v. Alvarez-Machain*, 542 U.S. 692, 761 (2004) (statute implicating international law should be interpreted “consistent with those notions of comity that lead each nation to respect the sovereign rights of other nations by limiting the reach of its laws and their enforcement.”) (Breyer, J., concurring in part and concurring in the judgment, citing in part *Murray v. Schooner Charming Betsy*, 2 Cranch 64, 118 (1804)); *Doe VIII v. Exxon Mobil Corp.*, 654 F.3d 11, 74 (D.C. Cir. 2011) (Kavanaugh, J., dissenting).

If so, the issues raised in this case may be mooted or significantly affected by such a determination. But even if the Court is mis-reading the tea leaves, the Supreme Court’s resolution of this broader question may provide this Court with better and

more precedential guidance on the issues that have been raised in the case to date. Accordingly, there appears to be good cause in this record to withhold ruling on the pending motions until such time as the Court resolves these broader issues in the interests of judicial economy. Moreover, given the Defendant's current status in this jurisdiction, there appears to be no prejudice to the Plaintiffs from a relatively short delay in moving forward with this action.

If a compelling showing is made by either party, or by agreement, that the Court's decision to stay this action is ill-advised, or otherwise that this Court should decide the subject matter jurisdiction question on its own for some reason, the Court will obviously reconsider this Order under Rule 59. But for now, the pending motions will be Denied as moot and the case stayed pending further Order of the Court.

DONE AND ORDERED in Miami, Florida, this 13th day of March, 2012.

/s/ Edwin G. Torres
EDWIN G. TORRES
United States Magistrate Judge