

Produce giant Chiquita Brands International has suffered a potential setback in ongoing litigation surrounding its payments to paramilitary forces in Colombia, in what freedom of information advocates have hailed as a "an important victory for transparency and corporate accountability". 

Since 2008, the multinational has sought to prevent the release of 9,257 pages of records submitted to the U.S. Securities and Exchange Commission (SEC) as part of an investigation into illegal payments to the United Self-Defense Forces of Colombia (AUC).

The information was requested by the Washington D.C.-based National Security Archive under the Freedom of Information Act (FOIA), as part of a documentation project into U.S.-Colombian links involving narcotics trafficking, drug cartels and paramilitary groups.

Chiquita asked the United States Court of Appeals for the District of the Columbia Circuit to deny the archive's request, claiming it would negatively impact the company in multi-district litigation in Florida. In the ongoing case, a group of Colombian citizens alleges Chiquita and some of its former officers should be held liable for making payments to paramilitary organizations such as the AUC, which tortured and murdered members of their families.

Chiquita and its fellow defendants have filed motions to dismiss in the Florida courts, and in its reverse FOIA appeal the multinational argued that as the archive is affiliated with the Florida plaintiffs' counsel, releasing the documents - some of which were the "most sensitive" - would be "tantamount to giving them to the plaintiffs".

However, in a recent ruling, the appeals court denied Chiquita's request.

"Neither the [Securities and Exchange] Commission nor the district court hearing this reverse FOIA action thought release would deprive Chiquita of a fair trial. We agree with them," said Circuit Judge Thomas B. Griffith.

Adina Rosenbaum, the Public Citizen attorney who represented the National Security Archive in the appeal, said the court's decision was an important victory for FOIA requesters and the public.

"The decision confirms that the government cannot withhold documents from the public just because they might be of interest to someone involved in litigation," Rosenbaum said.

"A ruling for Chiquita would have created a huge exemption to the FOIA law, with far-reaching implications.

"The court did the right thing by rejecting Chiquita's argument that these records are exempt from disclosure."

In April 2011, the archive published some 5,500 pages of Chiquita's records released by the Department of Justice in response to similar FOIA requests. The archive claimed those records revealed Chiquita allegedly benefited from its transactions with both AUC "paramilitary" groups and insurgents from the FARC and ELN guerrilla groups.

The archive said the records called into question the Justice Department's determination, spelled out in the 2007 plea deal, that there was no evidence of a quid pro quo with illegal groups.

"More than eight years ago, Chiquita became the first U.S. company to be convicted for engaging in transactions with a global terrorist organization," said Michael Evans, senior analyst at the National Security Archive.

"Finally the victims of AUC violence and the general public will get a look at what might be the most important document collection ever assembled on corporate ties to terrorism."

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