

## DC Circ. Greenlights Defamation Suit Against UK Activist

By **Nicole Rosenthal**

Law360 (May 27, 2022, 7:34 PM EDT) -- The D.C. Circuit has ruled that a lobbyist labeled as a former Russian-American spy by a prominent U.K.-based political activist can sue for defamation, finding that the District of Columbia's "long-arm" statute applies because of the activist's Washington, D.C.-based government affairs.

A divided 2-1 panel **held** on Thursday that Washington, D.C., resident Rinat Akhmetshin has personal jurisdiction to sue activist William Browder for defamatory comments made outside of D.C. because Browder had engaged in a "persistent course of conduct" in Washington by continually meeting with lawmakers and conducting other government business in the nation's capital.

"We decline to construe the 'persistent course of conduct' requirement in Section (a)(4) of the D.C. long-arm statute to exclude government contacts," Associate Judge Corinne Beckwith wrote for the majority.

The long-arm statute allows D.C. courts to apply personal jurisdiction over claims that a defendant's actions outside the region caused "torturous" injury in Washington.

Browder had argued that government contacts are an exemption under the long-arm statute for personal jurisdiction and that his work in D.C. should qualify for the exemption because it consists of governmental business such as meetings with lawmakers.

But Akhmetshin refuted that assertion, saying regardless of the exemption, Browder's work satisfies a "persistent course of conduct" requirement in Washington that is required to activate personal jurisdiction under the long-arm statute.

Pointing to the text of the long-arm statute, the circuit court ruled that the government contracts exception does not apply, finding that the statute's provisions requiring a "persistent course of conduct" in D.C. for personal jurisdiction extend to conduct associated with the government.

However, Associate Judge Stephen H. Glickman dissented from the majority to say that the government contracts exception is applicable when the basis for long-arm jurisdiction is "transacting any business in the District of Columbia" or the person "engages in any other persistent course of conduct ... in the District of Columbia."

"It is undisputed that long-arm jurisdiction cannot be predicated on federal government contacts in the District of Columbia when its assertion is based on the defendant's transaction of business in the District," Judge Glickman wrote. "I see no reason, and the majority opinion identifies no reason, why the government contacts exception should be unavailable when long-arm jurisdiction is asserted based on the defendant's 'persistent course of conduct' in the District."

Akhmetshin filed his defamation suit against Browder in 2018, alleging that Browder defamed him in **tweets** and media statements by calling him a "Russian intelligence asset" and "a member of [Russian President Vladimir] Putin's secret police."

Browder, who previously renounced his U.S. citizenship, is the CEO of investment fund Hermitage Capital Management and a vocal anti-corruption and human rights activist.

Counsel for the parties did not immediately respond to requests for comment late Friday.

Associate Judges Stephen H. Glickman, Corinne Beckwith and Roy W. Mcleese III sat on the panel for the D.C. Circuit.

Akhmetshin is represented by Michael Tremonte and Alexandra G. Elenowitz-Hess of Sher Tremonte LLP.

Browder is represented by Michael J. Gottlieb and Stephanie L. Miner of Willkie Farr & Gallagher LLP.

The case is Akhmetshin v. Browder, case number 19-7129, in the U.S. Court of Appeals for the District of Columbia Circuit.

-- Additional reporting by Daniel Wilson. Editing by Steven Edelstone.

*Correction: A previous version of this story incorrectly described Rinat Akhmetshin and included inaccurate counsel listing. The errors have been corrected.*