

Helms-Burton Act Lawsuit Dismissed for Lack of Article III Standing

In a ruling of first impression, the United States District Court for the Northern District of Texas dismissed for lack of Article III standing a Helms-Burton Act lawsuit alleging that American Airlines "trafficked" in property confiscated by the Castro government following the 1959 Cuban Revolution.

Title III of the Helms-Burton Act ("HBA"), 22 U.S.C. § 6021 et seq., provides a cause of action allowing certain U.S. nationals who own claims to property confiscated by the Castro government to seek damages from persons who subsequently "traffic" in the confiscated property. The HBA defines "traffic" broadly to include knowingly and intentionally engaging in a commercial activity using or benefiting from confiscated property. **After its enactment in 1996, U.S. presidents consistently suspended the HBA cause of action. But in May 2019, the Trump Administration ended the suspension, and numerous plaintiffs thereafter filed claims under the HBA.**

The most recent decision to address such a claim, *Glen v. American Airlines*, Case No. 4:20-cv-482-A (N.D. Tex. Aug. 3, 2020), held for the first time that, among other things, a plaintiff lacks standing to sue companies that benefit from property previously confiscated by the Castro government. The court's reasoning, if adopted by other courts, will have a major impact on other pending HBA lawsuits across the country.

Glen involved allegations that American "trafficked" in confiscated property because **travelers could book, through an American-branded website, hotel rooms located on property that allegedly had been confiscated from the plaintiff's relatives.** The Northern District of Texas dismissed the *Glen* complaint on several grounds, including that the plaintiff acquired his alleged claim to the confiscated property outside the period allowed by the HBA.

Of greatest significance to other pending HBA lawsuits, the district court also dismissed the complaint because the plaintiff lacked Article III standing. The plaintiff's principal claim of injury was that American had violated his rights under the HBA. The court, however, noted

that a statutory violation is insufficient to establish standing *per se* because Congress cannot confer standing on plaintiffs who do not otherwise satisfy the requirements of Article III.

The plaintiff complained that American had not compensated him for reservations made at hotels on the confiscated property. But this lack of compensation, the court held, could not constitute injury because American "did not deprive plaintiff of the Properties or the profits he might make if he owned and operated hotels on the Properties."

Furthermore, the court rejected the plaintiff's argument that he must have standing because Title III of the HBA would be eviscerated if he did not. Quoting the United States Supreme Court's 2013 decision in *Clapper v. Amnesty International*, the court explained that the "assumption that if [plaintiff has] no standing to sue, no one would have standing, is not a reason to find standing."