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## WLF Asks U.S. Supreme Court to Rein In “Responsible Corporate Officer” Doctrine

*(DeCoster v. United States)*

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**—Cory Andrews, WLF Senior Litigation Counsel**

WASHINGTON, DC—Washington Legal Foundation today asked the U.S. Supreme Court to review (and ultimately overturn) a divided Eighth Circuit ruling that upheld a term of imprisonment for two executives of Quality Egg LLC under the “responsible corporate officer” (RCO) doctrine—a rare instance of strict supervisory liability in the criminal law. In a brief filed in *DeCoster v. United States*, WLF argues that by depriving the defendants of their liberty based on employee misconduct of which defendants were unaware, the decision below expands the RCO doctrine far beyond what Supreme Court precedent or the Due Process Clause permits.

The case arises from the sentencing appeals of Austin and Peter DeCoster, the former CEO and COO, respectively, of Iowa-based Quality Egg. After a Salmonella outbreak at the company’s facilities in 2010, it voluntarily recalled hundreds of millions of shell eggs. Despite their cooperating fully with the Food and Drug Administration’s (FDA) investigation, the government charged both DeCosters with criminally violating the Food, Drug, and Cosmetic Act (FDCA). They pled guilty to one count each of introducing adulterated foods into interstate commerce, but because they had no knowledge of the statutory violation or the conduct that led to it, they pled guilty based solely on their status as “responsible corporate officers” at the time of the offense.

Urging review, WLF’s brief argues that although the Supreme Court has permitted criminal liability in the absence of *mens rea* in the narrow category of public welfare offenses, it has done so on the understanding that penalties imposed in such cases will be relatively small and conviction will not gravely damage offenders’ reputations. If the Eighth Circuit’s holding in this case is allowed to stand, WLF contends, it would expand the RCO doctrine far beyond the constitutional bounds the Supreme Court first articulated when adopting it over 70 years ago.

Upon filing its brief, WLF issued the following statement by Senior Litigation Counsel Cory Andrews: “FDA officials give every indication they view the draconian penalties imposed here—including the prison terms—as a model for similar cases. Either they don’t understand the limits of the ‘responsible corporate officer’ doctrine, or else they are deliberately acting contrary to Supreme Court precedent.”

*Celebrating its 40<sup>th</sup> year, WLF is the nation’s premier public-interest law firm and policy center fighting overcriminalization—including prosecutors’ attempts to criminalize ordinary business conduct better left to civil proceedings and any erosion of the traditional mens rea requirement.*