

Court Approves DPA for Pro Bono Client

Publications

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Jenner & Block secured a deferred prosecution agreement for pro bono client Pheerayuth Burden, who had been convicted of violating the Arms Export Control Act by sending gun parts to Thailand without a license. At trial, the main testimony against Mr. Burden came in by deposition because the cooperating witness was unavailable to testify live. The firm took the case on appeal to the DC Circuit, arguing that the introduction of the deposition evidence violated Mr. Burden's Sixth Amendment right to confront witnesses against him; we argued that the witness's unavailability could not excuse the violation because the government itself procured that unavailability by deporting the cooperating witness before trial without making any plans to bring him back. The DC Circuit agreed and vacated Mr. Burden's conviction, remanding for a new trial.

On remand, the firm team successfully negotiated a deferred prosecution agreement that will allow Mr. Burden to be free from burdensome pretrial release conditions and will ultimately allow for dismissal of the charges with prejudice.

The team was led by Partner Lindsay C. Harrison, with critical support from Partner David Bitkower.

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