

Blatt Wins Landmark Case Before U.S. Supreme Court

On June 22, the United States Supreme Court held that forfeiture of a Los Angeles man's money would be excessive and a violation of the Eighth Amendment. The attorney arguing for the defendant was a longtime SFVBA member and criminal defense attorney, James E. Blatt. Ruling that a forfeiture of \$357,144 for failing to declare possession of the money was grossly disproportionate to the crime, the High Court announced for the first time a standard to evaluate whether a forfeiture violates the Eighth Amendment.

Blatt will be recognized for his accomplishments at the SFVBA Installation Dinner & Monte Carlo Night on September 19. "We are very proud of Jim's achievement," announced SFVBA President Leon Bennett. "Very few attorneys ever have the chance to appear before the U.S. Supreme Court; having one of our own members win a landmark case which will enable citizens to protect their property against improper government seizure is worth celebrating."

In 1994, Blatt's client, Hosesep Krikor Bajakajian, boarded an international flight and failed to declare he was carrying over \$10,000. A subsequent search of his luggage and person uncovered \$357,144. The funds were seized pursuant to a federal customs statute.

The case was originally litigated in the Federal District Court. Judge Davies determined that the money was lawfully obtained, and targeted to pay legal debt overseas; total forfeiture would be grossly disproportionate under the 8th amendment Excessive Fines clause. The government appealed. The 9th Circuit declared that the money was not an instrumentality of the failure to report, and therefore not subject to seizure at all. The government's petition for certiorari was granted.

In early October, after a great deal of soul searching, Blatt decided to keep the case. His associate Michael Raab wrote the briefs, and Blatt studied in preparation for the moot court session before Public Citizen Litigation Group, a non-profit located in Washington D.C. that prepares attorneys for Supreme Court argument. After being soundly beaten in his first session, he put together his winning team. "It was a humbling experience," recalls Blatt. "I directed Raab to take a moderate approach, and hired Tarzana attorney Michael Heicklen to ferret out the conservative position. The dual effort would approximate the political persuasion of the court. We drilled four hours per day for five weeks prior to leaving for Washington, and ten hours per day after arriving."

The time and effort paid off. On November 4, 1997, at 1:30 p.m., Blatt opened with a one minute prepared statement but was cut off after thirty seconds. By conceding on non-critical issues and allowing the court to take the lead, a strong flow was established. "I was in the zone."

The High Court upheld the 9th Circuit by a 5 to 4 vote; Justice Thomas wrote the majority opinion. The court held that in personam forfeitures are different from traditional in rem, and covered under the 8th Amendment Excessive Fines Clause. The ruling is expected to provide an opportunity for legitimate citizens to challenge the government's attempts to seize and forfeit lawfully earned property. "From now on, if a forfeiture is grossly disproportionate to the crime, the property must be returned. My client would get his money back, and so will countless others in a similar situation."