

# Time Line of Events:

## United States v. Bajakajian

### 1. Forfeiture

#### Synopsis of the forfeiture

Los Angeles International Airport: Hosep Bajakajian boarded an international flight bound for Syria via Rome. When questioned by Customs agents, Bajakajian denied having any money over \$10,000. Unbeknownst to him, Customs agents had already used money *sniffing dogs* to inspect his luggage and determined it did indeed contain cash. A subsequent search of his luggage yielded cash in excess of \$350,000.00.

Mr. Bajakajian was charged in federal court with failing to report that he was taking the large amount of currency out of the country. (Note: it is not illegal to take money out of the country. The reporting requirement is merely that: a *reporting* requirement to gather information).

All the money was seized and the government sought forfeiture of the entire amount of currency.

### 2. Plea and Finding

#### Synopsis of plea and finding by the court

In Federal Court, Mr. Bajakajian entered a plea to the reporting offense. At the time of sentencing, briefs were submitted arguing for the return of the currency. In these briefs it was argued that the currency was lawfully obtained and intended for a lawful purpose. James E. Blatt also specifically argued that the forfeiture of the entire amount was excessive and in violation of the Eighth Amendment, even though the statute mandated forfeiture of the entire amount.

At sentencing, Judge Davies agreed that the money was, in fact, lawful and intended for a lawful purpose. The judge sentenced Mr. Bajakajian to probation because he felt that jail for this offense was inappropriate. He refused to enhance Mr. Bajakajian's sentence for obstruction of justice even though Mr. Bajakajian initially lied about the source of the currency. A small fine was imposed.

In reference to forfeiture, Judge Davies ruled that only \$15,000 be forfeited. Again, the judge did not feel that it was appropriate to forfeit all the money after a finding that there was nothing illegitimate about it, even though the statute mandated 100% forfeiture.

The US government appealed the District Court's order to return the currency and the matter was heard in The Ninth Circuit Court of Appeal on February 6, 1996.

## **3. Ninth Circuit Court**

### **Synopsis of the outcome of the appeal**

The matter came before the 9th U.S. Circuit Court of Appeal on Tuesday, February 6, 1996. Attorneys appeared before a three judge panel in Pasadena. James E. Blatt appeared for Mr. Bajakajian and was queried on topics ranging from the standard of review to the lies Bajakajian told customs officials when the money was found.

James E. Blatt further asserted that forfeiture laws should not be used by the government to keep it's citizens lawful property, and appealed to the judges' sensibilities by citing a recent 9th Circuit ruling that set a two-prong standard for analysis of whether a fine or forfeiture violates the Eighth Amendment. James E. Blatt argued (successfully) that there is no nexus between the money and the crime, pointing out that the forfeiture is "grossly disproportionate to the defendant's offense".

The court ruled for Mr. Bajakajian that it was unconstitutional for the government to forfeit all of Mr. Bajakajian's funds for his mere failure to report. Again the government appealed, asking the US Supreme Court to resolve a split between circuits which was created by the Ninth Circuit's decision.

## **4. U.S. Supreme Court Argument**

On Tuesday, November 4th 1997, the case was heard before the United States Supreme Court. James E. Blatt argued that the forfeiture was grossly disproportionate to the offense and a violation of the 8th Amendment. James E. Blatt urged the court to adopt a clear standard and once and for all, return Mr. Bajakajian's currency. The ruling,

delivered June 22, 1998 by Justice Clarence Thomas, upheld the Ninth Circuit Court's decision and ushered in a new era in forfeiture law for the United States. In his reading of the court's decision, Justice Thomas said, "Until today, however, we have not articulated a standard for determining whether a punitive forfeiture is constitutionally excessive. We now hold that punitive forfeiture violates the Excessive Fines Clause if it is grossly disproportional to the gravity of a defendant's offense."