

Unanimous Supreme Court Rules Against Terror

Victims in Iran Case

The ruling put an end to a long-running effort by victims of a 1997 suicide bombing attack in Jerusalem to collect a default judgment against Iran by seizing Persian artifacts housed by the University of Chicago and Chicago's Field Museum of Natural History.

By Tony Mauro

The U.S. Supreme Court on Wednesday made it more difficult to attach museum artifacts and other holdings in the United States to fulfill judgments against foreign countries under the Foreign Sovereign Immunities Act.

By a unanimous 8-0 vote, the court said the law in most instances “does not provide a freestanding basis for parties holding a judgment ... to attach and execute against the property of a foreign state.”

The ruling, authored by Justice Sonia Sotomayor, put an end to a long-running effort by victims of a 1997 suicide bombing attack in Jerusalem to collect a default judgment against Iran by seizing Persian artifacts housed by the University of Chicago and Chicago's Field Museum of Natural History. More than 30,000 clay tablets with ancient writing were loaned to the university by Iran in 1937.

“Out of respect for the delicate balance that Congress struck in enacting the FSIA, we decline to read into the statute a blanket abrogation of attachment and execution immunity ... absent a clearer indication of Congress’ intent,” Sotomayor wrote. Justice Elena Kagan was recused in the case, likely because of her earlier involvement in the case as U.S. solicitor general.

Dorsey & Whitney partner Juan Basombrio, an expert on the law, said Wednesday the decision will have “broader application” beyond the context of terrorism because “the Supreme Court has held that the grounds to attach assets of a foreign state are only those specifically set forth by Congress in Section 1610 of the FSIA. Therefore, courts cannot expand beyond those specifically numbered grounds.”

Asher Perlin, a lawyer in Hollywood, Florida, who has been with the case since it went before the U.S. Court of Appeals for the Seventh Circuit, argued for the plaintiffs. The appeals panel ruled in 2016 that there is no freestanding exception in state-sponsored terrorism cases to the immunity that shields foreign governments under U.S. law. The high court agreed with the circuit ruling.

“This was a difficult loss for my clients who have been waiting for justice for more than 20 years since the Iran-sponsored terrorist attack that shattered their lives. We disagree with the court’s decision,” Perlin said in a statement Wednesday. He added: “The court had a rare opportunity to hold Iran’s feet to the fire and compel it to pay a US judgment. We regret that the court let that opportunity slip away.”

University of Chicago Law School professor David Strauss, a veteran advocate who also directs the law school’s appellate and Supreme Court clinic, argued against the seizure. The United States sided with Iran and the university as amicus curiae.