spring 2017

How Much is Too Much? Forfeitures and the Eighth Amendment

Dan Wenner and Stan Twardy authored an article titled "How Much is Too Much? Forfeitures and the Eighth Amendment" (PDF) for the American Bar Association's Section of Criminal Justice. The article compared the arguments and outcomes in two cases that both considered the constitutionality of exorbitant forfeiture judgments. The cases, United States v. Beecroft from the Ninth Circuit and United States v. Viloski from the Second Circuit, each gave a glimmer of hope to defendants who are trying to avoid the "hefty forfeiture judgments that might haunt them long after they have left federal custody and returned to society." In each case, the sentencing court had ordered the defendant to pay massive amounts in forfeiture, and on appeal, each defendant argued that those judgments violated the Eighth Amendment's Excessive Fines Clause. The authors pointed to each case as providing defense counsel with arguments they might use when faced with high forfeitures. Dan and Stan concluded that "By wrapping their arguments in the cloak of gross disproportionality and focusing the sentencing court on the real-world impact of an exorbitant forfeiture judgment, defense counsel might minimize the ultimate penalties imposed on their clients."

Authors



Stanley A. Twardy, Jr.
Of Counsel

Stamford, CT | (203) 977-7368

satwardy@daypitney.com