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Supreme Court to Hear Case Involving Judgments Against Iran

By BARRY MEIER



The aftermath of a truck bombing of a United States Marines barracks in Beirut, Lebanon, on Oct. 23, 1983.

WASHINGTON — The Iranian government has come under sharp criticism for not giving imprisoned Americans a fair and public court hearing. But on Wednesday at the Supreme Court, Iran will get just that.

The question before the court is relatively narrow: Did Congress act unconstitutionally in passing a 2012 law helping families of victims of terrorist attacks — including those killed in the 1983 Beirut bombing — collect judgments against Iran?

But the arguments are taking place at a critical juncture in relations between the United States and Iran, coming just months after the nuclear agreement signed by the two countries. Also, if the Supreme Court decision goes against Iran, the country will be forced to forfeit some \$1.85 billion in assets, the largest single handover of funds to American plaintiffs who over the years have won dozens of terrorism-related court judgments against Iran.

Along with the Beirut bombing, cases have involved the Khobar Towers bombing in Saudi Arabia in 1996, the Sept. 11 attacks, airplane hijackings and other incidents in which Iran has been accused of financing or facilitating the acts of terrorist organizations. But while plaintiffs have won tens of billions in dollars in judgments against Iran, which has declined to defend itself in those cases, the families of victims have seen neither financial rewards nor a sense of justice.

“It has been a long, long road,” said Lynn Derbyshire, the sister of Vincent Smith, a Marine captain who died in the Beirut attack.

The federal government has put up barriers to the collection of those judgments because under diplomatic arrangements with Iran it has agreed to protect some of that country’s assets here. And both the Iranian government and Iranian organizations have fought in court to block the enforcement of lawsuit-related judgments, by challenging efforts to seize property or bank accounts.

At a November hearing in New York, for example, lawyers for the Alavi Foundation, the majority owner of a Manhattan office tower at 650 Fifth Avenue, asked a federal appeals court panel to block a move by the Justice Department to seize the building, originally built by the shah of Iran. Federal prosecutors had charged that Alavi and the building’s other owner, the Assa Corporation, were fronts for the Iranian government and engaged in money laundering that violated United States economic sanctions.

In 2014, Preet Bharara, the United States attorney in Manhattan, struck a deal with lawyers for 19 individual families or groups holding judgments against Iran that provided for a pro rata distribution of proceeds from the sale of 650 Fifth Avenue, estimated to be worth around \$1 billion. But at the federal appeals court hearing, a lawyer for the Alavi Foundation, Daniel Ruzumna, argued that government’s seizure of the building should be stopped because the group, which describes itself as a charitable organization, had not been given an adequate opportunity to prove that it was not involved in wrongdoing.

“This is the death knell of a 40-year-old charity,” Mr. Ruzumna said. The Alavi Foundation was devoted to the promotion and support of Persian and Islamic culture. The appeals court’s decision is expected this year.

The case before the Supreme Court on Wednesday started with a 2001 lawsuit filed against Iran by families of some of the 241 servicemen killed in the bombing of the United States Marine barracks in Beirut. In 2003, a federal judge found Iran liable for helping to finance the attack and, four years later, awarded \$2.7 billion in compensatory damages against that country for its role in the bombing.

Over the years, Congress has passed several laws aimed at helping the families of terrorism victims collect awards. In 2002, for example, lawmakers enacted the Terrorism Risk Insurance Act, giving plaintiffs with judgments the ability to execute them against the blocked assets of a party deemed a terrorist.

At the time, that law did not have a significant effect on recovering damages because plaintiffs’ lawyers found few Iranian assets. But in 2008, officials at the Office of Foreign Assets, a unit of the Treasury Department, notified lawyers in the Beirut bombing case that they had found \$1.75 billion in assets belonging to Iran’s central bank, Bank Markazi, in a Citibank account.

The plaintiffs' lawyers in the Beirut bombing case began a proceeding to seize those assets. The Iranian government fought the proceeding on several grounds, including that the funds were immune from seizure. Then, in 2012, Congress passed a law called the Iranian Threat Reduction and Syrian Human Rights Act, which made specific reference to the Beirut case and ordered the court to require the surrender of the Iranian assets to the victims' families.

That law is the focus of the Supreme Court case. In their filings, lawyers for Bank Markazi have argued that the law violates the Constitution because, in effectively directing a result in a specific lawsuit, Congress is improperly encroaching on the role of the federal judiciary.

“That legislative intrusion into a single pending case — changing the law so that plaintiffs’ can collect more than \$2 billion from their adversaries — clearly violates the separation of powers,” the bank’s lawyers stated in their brief.

Lawyers for the families of the victims of the Beirut barracks bombing and their supporters have called Iran’s argument a further attempt by Iran to avoid responsibility for state-sponsored terrorism. Jimmy Gurulé, a professor at Notre Dame Law School, said he was surprised that the Supreme Court decided to take the case because Iran’s liability for the Beirut attacks had been assessed long before the 2012 law was passed.

“It simply delays the day of justice,” said Mr. Gurulé, one of seven professors specializing in national security who [filed a brief](#) in support of the plaintiffs.

Ms. Derbyshire, the sister of the Marine captain who died, said she was eager for that day to arrive. “It would be great if the Supreme Court ruled in our favor,” she said. “For me, this has been much more about getting justice than getting money.”