

US Supreme Court ruling: a further blow to legal aid for the poor

Walter Gilberti
18 June 1998

By a 5 to 4 decision June 15 the Supreme Court attacked one of the principal means by which states fund legal assistance for the poor. The high court ruled that interest accrued by clients on deposits to lawyers is the property of the client, opening the door to direct challenges to programs that use the interest as a public fund to help finance legal aid.

The program, known as the Interest on Lawyers Trust Accounts, or Iolita, was adopted in the 1980s, at the same time as Congress, under the Reagan administration, began cutting funds to legal services. With Iolita programs, the interest on individual client's deposits, usually an insignificant amount absorbed by banking fees, is pooled and used by states to pay for legal services.

With Monday's ruling, the Supreme Court has decided in favor of a challenge to the Texas Iolita program by the right-wing Washington Legal Foundation. Legal aid to the poor has been the target of a decadeslong assault by various defenders of "property rights."

The Foundation's challenge to Iolita has two interrelated aspects. First, the Foundation argued that the use of a client's interest was a violation of property rights guaranteed in the Constitution. In fact, Chief Justice William Rehnquist, in citing the Fifth Amendment, went so far as to defer to a later date whether clients should receive "just compensation" for their deposits. The second, and perhaps even more significant point, is the Foundation's contention, consistent with the right-wing attack on all state-sponsored social reforms, that such programs as Iolita compel clients to finance policies that they oppose.

A Washington Legal Foundation spokesman, Richard Samp, called the ruling "a resounding endorsement of private property rights," and predicted total victory in

the near future. "We're 90 percent of the way home," Stamp crowed.

The ruling divided the court along fairly predictable lines, with right-wing Justices Rehnquist, Scalia, Thomas, O'Connor and Kennedy voting in favor of the ruling, and the more moderate justices Sutter, Stevens, Ginsburg and Breyer dissenting. It is worth noting that the court's decision came in the face of significant opposition, including that of the chief justices of all 50 states, the American Bar Association and 35 states attorneys general. In defending Iolita, the latter argued that for individual clients the interest was insignificant, and its value as a source of money for legal aid occurs only after the interests are pooled.

The destruction of Iolita would drastically curtail the availability of legal services for poor people. Between 1983 and 1993 Iolita provided over \$400 million to legal aid. One supporter of the program estimates that Iolita funds account for as much as one-quarter of legal aid costs.



To contact the WSWP and the
Socialist Equality Party visit:

wsws.org/contact