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Supreme Court To Decide Whether Criminal Defendants Have Right To Hire Lawyers With Frozen Assets

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WASHINGTON -- The Supreme Court took up a case Monday concerning whether the government can deny criminal defendants untainted money they need to hire an attorney of their choice.

The case, *Sila Luis v. United States*, will be heard in the court's next term starting in the fall. Luis was indicted in 2012 on fraud charges involving \$45 million in allegedly illegal Medicare payments. The FBI said that Luis, as president of a health care provider, paid kickbacks and bribes to Medicare patient recruiters and submitted false claims for work done on behalf of the beneficiaries.

When federal prosecutors froze her assets, Luis sued, arguing that not all her assets were connected to the charges and that she needed money to hire an attorney. Both a federal district judge and federal appeals court ruled in the government's favor, saying Luis did not have a constitutional right to the funds.

The Justice Department has argued that the government could freeze the funds. In its case against Luis, the government said it was putting assets on hold that would be forfeited after the defendant was convicted, because she had already spent the tainted money on travel and luxury goods. The government has argued it was making a forfeitable versus nonforfeitable calculation, rather than a tainted versus untainted one.

In petitions urging the Supreme Court to take up the case, legal experts argued that the justices should consider whether Luis' Sixth Amendment right to hire counsel of her choice should outweigh prosecutorial efforts to recover the full value of the alleged fraud.

Last year, the court's justices ruled that indicted defendants do not have a right to challenge the forfeiture of their assets at a hearing in order to hire attorneys to defend them.

In a dissenting opinion to that decision, Chief Justice John Roberts appeared to foreshadow Luis' argument.

“Few things could do more to undermine the criminal justice system’s integrity than to allow the government to initiate a prosecution and then, at its option, disarm its presumptively innocent opponent by depriving him of his counsel of choice,” Roberts wrote. Such a move, he explained, would be “fundamentally at odds with our constitutional tradition and basic notions of fair play.”

Asset forfeiture is increasingly becoming a bipartisan cause of concern in Congress, though the focus has been more on civil forfeiture practices in states and local communities.