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WLF Tells Supreme Court Why USDA's Crop Seizure Program Violates Raisin Farmers' Property Rights

(Horne v. U.S. Dep't of Agriculture)

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—Richard Samp, Chief Counsel, Washington Legal Foundation

WASHINGTON, DC—Washington Legal Foundation (WLF) late yesterday encouraged the U.S. Supreme Court to overturn the federal government's Great Depression-era raisin marketing program. In a brief filed in *Horne v. U.S. Department of Agriculture*, WLF argues that the Fifth Amendment requires the government to pay just compensation whenever it takes private property for public use, but that USDA routinely violates private property rights by confiscating a significant portion of the annual raisin crop without ever paying for it.

WLF filed its *amicus* brief to support farmers who refused USDA's demand that they acquiesce to the seizure of nearly half their raisin production, and then had a \$700,000 penalty slapped on them for failing to comply with USDA's order. In the two years at issue, USDA seized 47 percent and 30 percent of the raisin crop produced by every one of the nation's raisin farmers. The seizure program is intended to hold down the raisin supply and thereby drive up raisin prices. USDA either gives away or sells (overseas and at a deep discount) the seized raisins. It is supposed to then distribute net proceeds from these raisin sales (after paying all its own expenses) back to raisin farmers, but USDA often fails to generate any net profit.

WLF's brief urges the Court to find that government violates the Fifth Amendment's Takings Clause whenever it takes physical possession of property without just compensation. WLF argues the lower court erred in deciding this “*per se* taking” rule only applies to government seizures of real property, and not to personal property. WLF further argues that farmers may assert a takings defense against USDA raisin program fines and that USDA may not condition farmers' permission to sell their crops on their acquiescing to USDA's unconstitutional seizures.

After filing its brief, WLF issued the following statement by Chief Counsel Richard Samp:

“Courts must become more willing to put real teeth into the Takings Clause of the Fifth Amendment. In the absence of strict enforcement, government officials have proven far too willing to take private property without providing just compensation. And ‘just compensation’ means payment of the full value of seized property—not the pennies-on-the-dollar the Department of Agriculture provides raisin farmers.”

WLF is a public interest law firm and policy center that regularly litigates in support of individual rights, including private property rights.

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