

Wiley Files Supreme Court *Amicus* Brief in *Sanchez v. United States*

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Washington, DC - Wiley Rein LLP, on behalf of the Cato Institute and the Goldwater Institute, filed an *amicus* brief in the U.S. Supreme Court in support of a petition for writ of *certiorari* in *Sanchez v. United States*, a case arising out of the Eleventh Circuit that raises important questions about property rights, government forfeiture, and due process.

In this case, the petitioners—Jaqueline Yupanqui Palacios, Luis Sanchez, and an electronics business partially owned by Sanchez—had entrusted a third-party courier with \$9,000, which was payment for electronics merchandise sold to Palacios by Sanchez. But unbeknownst to them, the courier was also transporting drugs. For that reason, the courier was arrested, criminally charged, pleaded guilty, and agreed to forfeit the \$9,000—even though he had explained that the \$9,000 was not his and had no connection to the drugs he was transporting. Nevertheless, the district court entered a preliminary order of forfeiture authorizing the government to seize the \$9,000.

In an effort to recover their money, Sanchez and Palacios then asked the district court for a hearing under 21 U.S.C. § 853(n)—a statute enacted by Congress specifically to allow innocent owners like them to reclaim their property after it has been preliminarily forfeited to the government in a third party’s criminal case. But instead of holding a hearing, the district court dismissed Sanchez’s and Palacios’ § 853(n) petition because, pertinently, it had been signed incorrectly. When Sanchez and Palacios asked for leave to amend the petition to fix that minor, technical error, the district court refused, reasoning that the 30-day deadline to file an § 853(n) petition—which had passed after Sanchez and Palacios filed their initial petition—was

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“mandatory” and therefore did not allow § 853(n) petitions to be amended after the deadline.

Palacios and Sanchez appealed the district court’s decision, but the Eleventh Circuit agreed with the court’s reasoning and affirmed its decision. In doing so, however, the Eleventh Circuit deepened a circuit split as to whether § 853(n) petitions may be amended after the filing deadline.

In the *amicus* brief filed on behalf of Cato and Goldwater, Wiley urges the Court to grant the petition for writ of *certiorari* in order to reverse the Eleventh Circuit’s decision. Wiley argues that, according to established legal principles, innocent owners seeking to recover their property from the government under § 853(n) generally are allowed to amend their petitions—particularly to correct technical mistakes—even after the filing deadline has passed. Thus, the Eleventh Circuit’s ruling denies innocent owners some of the legal process they are due before the government can permanently seize their property. Furthermore, Wiley asserts in the brief that this ruling conflicts with settled law in similar contexts that is much more forgiving of technical mistakes—including mistakes made by the government when it seeks to forfeit property in the first place. Therefore, the Eleventh Circuit’s decision goes against the government’s “broader duty of fundamental fairness,” which is contained in the Constitution’s guarantee of due process, by putting § 853(n) petitioners on “worse footing than the government when it stands in similar circumstances,” as Wiley explained in the brief.

For Wiley, the brief was filed by Thomas M. Johnson, Jr., Joel S. Nolette, and Daniel T. Park.

The case is *Sanchez v. United States*, No. 23-1050, U.S. Supreme Court.