

# United States Court of Appeals Rules on First Case under Crime Victims' Rights Act (CVRA)

On January 20, 2006 the United States Court of Appeals for the Ninth Circuit issued an opinion upholding the right of crime victims to speak at the convicted criminal's sentencing hearing. The case involved a father and son who swindled dozens of victims. The two pled guilty to wire fraud and money laundering. Over 60 victims submitted victim impact statements. At the father's sentencing, several victims spoke about the effects of the crimes – retirement savings lost, businesses bankrupted and lives ruined. Unfortunately, at the son's sentencing the judge in the United States District Court for the Central District of California refused to allow the victims to speak. He said, "I listened to the victims the last time . . . quite frankly, I don't think there's anything that any victim could say that would have any impact whatsoever." This attitude was shocking. President Bush spoke out against this attitude toward crime victims when he addressed an audience at the Department of Justice in 2002. The President said, "Too often, the financial losses of victims are ignored. And too often, victims are not allowed to address the court at sentencing and explain their suffering. . . ." The President went on to say, "When our criminal justice system treats victims as irrelevant bystanders, they are victimized for a second time."

Fortunately, the Court of Appeals held that the District Judge had made a mistake. In its decision, the Court of Appeals made three important points.

1. In passing the CVRA, it was the intent of Congress to allow crime victims to speak at sentencing hearings, not just submit victim impact statements.
2. Victims have a right to speak even if there is more than one criminal sentencing. This ruling is important in cases with multiple defendants. As the Court of Appeals noted, "The effects of a crime aren't fixed forever once the crime is committed-physical injuries sometimes worsen; victims' feelings change; secondary and tertiary effects such as broken families and lost jobs may not manifest themselves until much time has passed. The district court must consider the effects of the crime on the victims at the time it makes its decision with respect to punishment, not as they were at some point in the past."
3. The remedy for a crime victim denied the right to speak at a sentencing hearing is to have the sentence vacated and a new sentencing hearing held in which the victims are allowed to speak.

Again, we can celebrate this decision as an important step in securing the rights of crime victims. If you wish to read the Court of Appeals decision you can find it here:

<http://caselaw.lp.findlaw.com/data2/circs/9th/0573467p.pdf>

As always, thank you for your efforts on behalf of crime victims.

John W. Gillis

Sent by John Gilles, Director of the federal Office for Victims of Crime, January 26, 2006