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## First Amendment - Forfeiture: Alexander V. United States, 113 S. Ct. 2766 (1993)

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the clothing and novelty industry, but limited those rights in favor of Brooklyn's rights in their Brooklyn-based restaurants.

S.W.

## FIRST AMENDMENT - FORFEITURE

ALEXANDER V. UNITED STATES, 113 S. Ct. 2766 (1993).

Ferris J. Alexander, Sr. ("Alexander"), petitioner, appeals an Eighth Circuit Court of Appeals decision which ordered him to forfeit his business and almost nine million dollars he acquired through racketeering activity. Alexander was in the "adult entertainment business," selling and renting sexually explicit material. He received these materials at a warehouse in Minnesota and then distributed his products through various retail stores in several Minnesota cities. In 1989, Alexander was charged in a forty-one count indictment which alleged both obscenity and RICO violations. After a four month jury trial, Alexander was convicted of seventeen obscenity offenses and three RICO offenses, predicated on the obscenity convictions. The District Court imposed a prison term and fine on Alexander, and ordered him to forfeit his business assets. The Court of Appeals affirmed.

*Held:* Forfeiture was a permissible punishment for Alexander and did not violate his First Amendment rights. The Court dismissed Alexander's argument that the forfeiture constituted an unconstitutional prior restraint on speech, since the term prior restraint pertains to court orders that actually forbid expressive activity before the communication occurs. The Court characterized the forfeiture order as merely depriving Alexander of assets derived from his prior racketeering activity, and not a prevention from engaging in expressive activity. Furthermore, the Court found Alexander's argument overbroad and inapposite since the RICO statute does not criminalize constitutionally protected speech. The Court of Appeals, however, should have determined whether RICO's forfeiture provisions resulted in an excessive penalty within the Eighth Amendment's excessive fines clause, restricting the government's power to demand payment as punishment for a criminal act. Vacated and remanded.

R.C.