

United states v. salerno

Law



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United s v. Salerno United s v. Salerno was the landmark case that called into question the “ Bail Reform Act of 1984”. It was during the trial for this case that the US Supreme Court decided that a detainee may be kept under arrest provided that the prosecution could prove that the accused was a danger to the community and other people. Therefore, there was no violation of the 5th amendment nor the Excessive Bail Clause of the 8th Amendment. This case was based upon the arrest and subsequent indictment of La Cosa Nostra boss Anthony Salerno on violations of the Racketeer Influenced and Corrupt Organizations Act (RICO Act). Due to evidence that he proved to be a danger to the community, the government requested that he be held without bail until trial. The 2nd Circuit Court of Appeals found that pretrial detention based upon the possibility of future dangerousness to be unconstitutional and a deprivation of liberty. The government won during the appeal round at the U. S. Supreme Court (“ United States v. Salerno”). The 8th Amendment of the United States Constitution, which is based upon the English Bill of Rights, prohibits the application of excessive bail or fines, including cruel and unusual punishments. The right of bail is part of the U. S. Supreme Court belief in a person's right to traditional freedom prior to conviction. This law prevents the law enforcers from unlawfully holding an accused in jail for an indefinite period of time. This is the law that is used to support the belief that a person is innocent until proven guilty in trial. Although the 8th Amendment does not clearly speak of a person's right to bail, it does mention that it does not allow the imposition of excessive bail. It is important to note that the Excessive Bail Clause, which is part of the 8th Amendment of the United State Constitution. is only put into effect within federal pre-trial detention. In order to understand the importance of the protection offered by the 8th

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Amendment to the accused, one must first understand the meaning behind the term “ Excessive Bail”. Bail is defined as the amount of money that can secure the temporary freedom of the accused while he awaits his trial. This is normally an amount that is deemed reasonable enough when equated with the crime committed. On the other hand, excessive bail is an amount not ordinarily associated with the amount of bail set for a crime committed. This is an amount in excess of the normal bail bond required for a particular offense in order to ensure that the accused will always come to his scheduled court appearances. The 8th Amendment of the United State Constitution prevents the courts from setting such types of bail that can be understood to be a type of cruel an unusual punishment for the accused during his pretrial proceedings. In the event that excessive bail is claimed by the court in jurisdiction of the case, the defendant may appeal directly to the court for a reduction. Although excessive bail is prohibited under the 8th Amendment, one must not confuse it with matters relating to “ Denial of Bail”, which is a totally separate court ruling. Denial of Bail is the act by which a federal court may deny bail to any defendant who proves to be a danger to his immediate surroundings, person, or community. This is normally done to also prevent the accused from becoming a flight risk as in the case of high profile cases. Denial of bail is usually implemented during the pretrial stage and is more commonly referred to as pretrial detention or preventive detention. However, if there are certain regulations that can be implemented in order to assure the safety of the community that the defendant will be released into, then bail may also be granted by the courts. Denial of bail is mostly implemented when a defendant is accused commits an act of felony that includes a capital felony, a felony committed while on <https://assignbuster.com/united-states-v-salerno/>

parole or free on bail, or when the accused violates the terms of his release. During such instances, Denial of Bail becomes a clear and acceptable act on the part of the court. Sources N. A. (n. d.). Denying bail for a dangerous defendant. lawyers. com. Retrieved from <http://criminal.lawyers.com/Criminal-Law-Basics/Denying-Bail-for-a-Dangerous-Defendant.html> N. A. (n. d.). Excessive bail. legal explanations. com. Retrieved from <http://www.legal-explanations.com/definitions/excessive-bail.htm> N. A. (n. d.). United States v. Salerno. Bloomberg Law. Retrieved from <http://www.casebriefs.com/blog/law/criminal-procedure/criminal-procedure-keyed-to-israel/pretrial-release/united-states-v-salerno-2/> N. A. (n. d.). The right to Bail. Civics Library of the Missouri Bar. Retrieved from <http://members.mobar.org/civics/Bail.htm> N. A. (n. d.). 2006 Utah Code - 77-20-1 — Right to bail -- Denial of bail -- Hearing. Justia. com U. S. Law. Retrieved from http://law.justia.com/codes/utah/2006/title77/77_17002.html