

MVP: Jenner & Block's Ian Heath Gershengorn

By Christopher Cole

Law360 (October 5, 2020, 5:17 PM EDT) -- Ian Heath Gershengorn, chair of Jenner & Block LLP's appellate and Supreme Court practice, scored a landmark victory for Indian Country when the high court ruled that the Muscogee (Creek) Nation's reservation endures, meaning the state of Oklahoma could not prosecute his Native American client for committing a crime within the tribal land's boundaries, placing him among Law360's 2020 Appellate MVPs.

HIS BIGGEST ACCOMPLISHMENT THIS YEAR:

Gershengorn considers the Creek reservation case his biggest of the year, partly because of the way U.S. Supreme Court Justice Neil Gorsuch left no doubt about the endurance of tribal treaties in the 5-4 decision.

"What made this special was not just the result, but the way Justice Gorsuch wrote the opinion, reaffirming that the United States will make good on its promises, that the tribes have the right to rely on the treaty promises," Gershengorn told Law360.

"On the far end of the Trail of Tears," the justice wrote in the July opinion, "was a promise." That promise was "a reservation in perpetuity."

Gershengorn said that another client in a similar situation had his state conviction overturned after the decision as well.

"I have been on calls in Indian Country where people reacted very emotionally to the decision," Gershengorn said. "And, you know, in a way that was quite, quite powerful."

HIS BIGGEST CHALLENGE THIS YEAR:

Gershengorn served as acting U.S. solicitor general late in the Obama administration, and he said his time in the solicitor general's office helped inform the way he approaches cases. He said one of his challenges is navigating efforts by the government to take away benefits that he called "really life-changing for a lot of people."

Two major cases in the past year dealt with Medicaid benefits and the Trump administration's effort to



rescind the Deferred Action for Childhood Arrivals program, respectively. In the former, Jenner & Block noted, Gershengorn successfully argued for a ruling that effectively paused efforts to let states impose work requirements on Medicaid recipients. In the latter, Gershengorn was on the team that persuaded the Supreme Court to rule 5-4 in June that rescinding DACA was arbitrary and capricious.

The challenge in such instances, he said, is trying to "overcome the natural presumption that courts have in favor of actions by the government to really get relief for people who need it."

WHAT MOTIVATES HIM:

Gershengorn told Law360 that two main areas of motivation drive his everyday work.

"One is being able to have real-world results for the clients," Gershengorn said. "To be able to know that as a result of our work ... people have stayed on Medicaid; people have been getting new, fair trials; that DACA recipients are continuing to remain in the country."

"And then the second thing is really trying to be the mentor to other lawyers that folks have been to me, and really working with the lawyers, whether it be at Federal Programs or at the solicitor general's office — and certainly now at Jenner & Block — to really help more junior lawyers to figure out what it is they want to do to really improve their abilities and really enjoy the practice of law," he said. "Because I feel like I've definitely been the recipient of a lot of that. And I definitely feel the obligation to sort of pay that forward, and do the same for the people I'm working with."

HIS ADVICE FOR JUNIOR ATTORNEYS:

Gershengorn's main piece of advice for junior attorneys is that they should surround themselves with professionals they want to learn from, no matter their niche in the legal world.

"Associate yourself with people whom you respect and admire and work with them," Gershengorn said. "And I think when that happens, all the good things follow. And worry a little less about whether it's the precise subject matter you thought you would be interested in, or the precise work you thought you would be doing."

"If you work with talented people who you respect, you will enjoy your work, and good things will come," he added. "Be open to the opportunities that you weren't quite expecting. If you feel like the people you'll be working with are talented and moral and worthy of your respect, take a chance on that, and trust that good things will follow from it."

— *As told to Christopher Cole.*

Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2020 MVP winners after reviewing more than 900 submissions.