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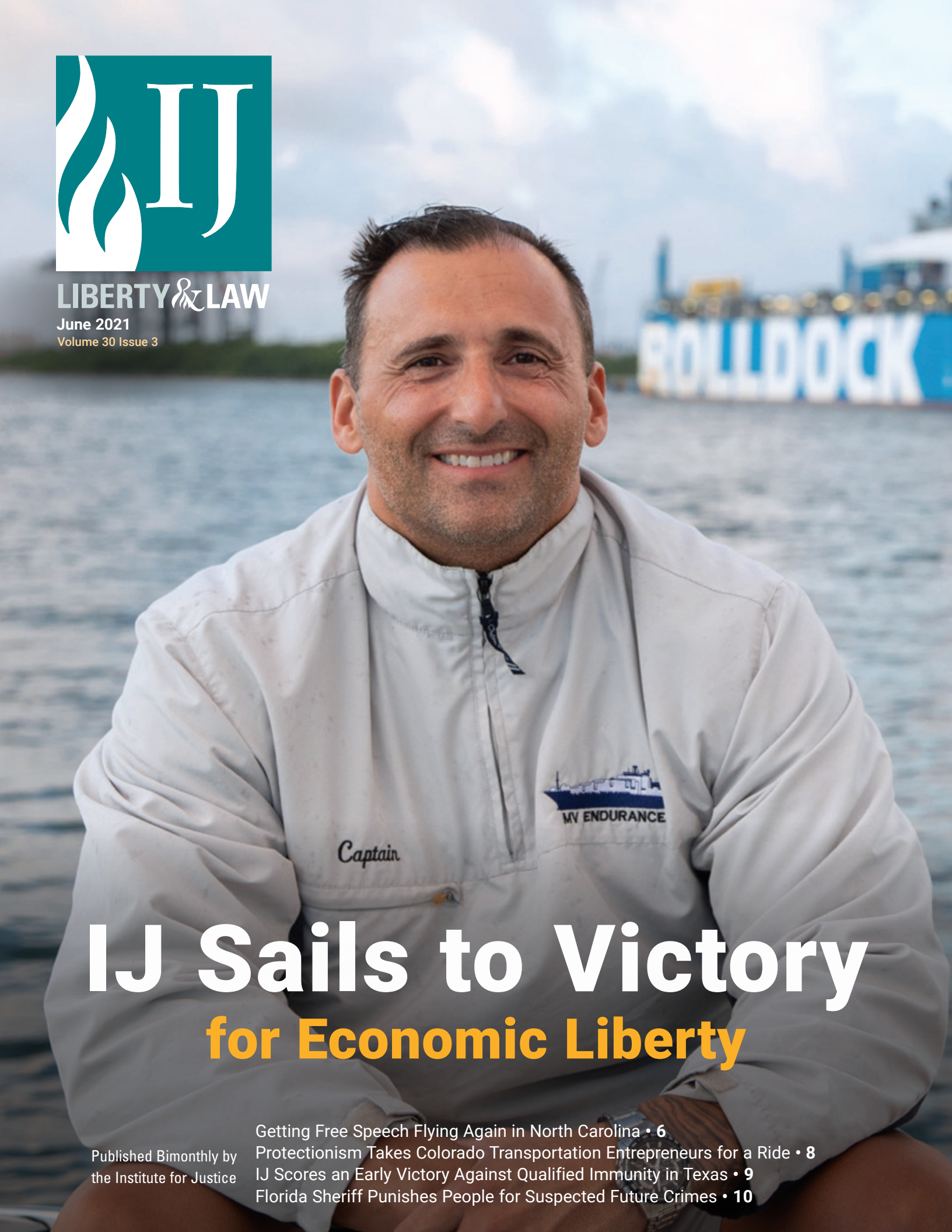

IJ Sails to Victory for Economic Liberty

Published Bimonthly by the Institute for Justice

contents

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About the publication: *Liberty & Law* is published bimonthly by the Institute for Justice, which, through strategic litigation, training, communication, activism, and research, advances a rule of law under which individuals can control their destinies as free and responsible members of society. IJ litigates to secure economic liberty, educational choice, private property rights, freedom of speech, and other vital individual liberties, and to restore constitutional limits on the power of government. In addition, IJ trains law students, lawyers, and activists in the tactics of public interest litigation. Through these activities, IJ challenges the ideology of the welfare state and illustrates and extends the benefits of freedom to those whose full enjoyment of liberty is denied by government.

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With his dreams of becoming a pilot foundering, Captain Matthew Hight teamed up with IJ to file a federal lawsuit challenging the Coast Guard's delegation of its power, arguing that it violated both the Constitution and the Coast Guard's own regulations.

IJ Sails to Victory for Economic Liberty

BY ADAM GRIFFIN

For years, the Institute for Justice has litigated to curtail the power of federal agencies to restrict Americans' economic freedoms. This spring, we secured another victory in that effort: IJ client Captain Matthew Hight won a lawsuit against the U.S. Coast Guard and a private monopoly's attempt to wrongfully deprive him of his right to earn a living as a pilot on the St. Lawrence Seaway.

Captain Hight is a veteran mariner. He spent decades training on the high seas and eight years captaining ships. After his time at sea, he decided to return stateside and train to become a pilot, navigating cargo carriers on the Great Lakes. Pilots take over for captains in narrow waters, or when in a harbor, applying local knowledge to tricky navigational situations.

Captain Hight applied to the private pilots' association and trained with it for more than two years. He had nearly achieved his pilot's license when he had a disagreement with the association president. Suddenly, the association informed the Coast Guard—the federal agency that regulates Great Lakes pilots—that it would not recommend Captain Hight for his pilot's license. The Coast Guard deferred to the private agency and left Captain Hight marooned with no license and no job.

Captain Hight challenged his rejection, but the Coast Guard said that he could not take the pilot's exam unless the private association—which has a legal monopoly over pilots—gave him a positive recommendation. With his dreams of becoming a pilot foundering, Captain Hight teamed up with IJ to file a federal lawsuit challenging the Coast Guard's delegation of its power, arguing that it violated both the Constitution and the Coast Guard's own regulations.

The federal district court in the District of Columbia agreed, ruling that the Coast Guard had indeed violated its own regulations. The judge wrote that regardless of whether the agency thought its interpretation of the rules was good policy, "that is not what the regulations say, and the text controls." The court also noted that the government failed to offer any interpretation of its regulations that would justify its delegation of authority to the pilots' association.

This decision is an important vindication of the principle that government must follow its own rules and regulations. It is also a stern warning to federal agencies that federal courts will not allow them to interpret their own rules however they wish in any given circumstance. The text controls. Here, the text gives qualified workers like Captain Hight the chance to earn an honest living.

Thanks to this ruling, the Coast Guard must now administer the pilot's exam to Captain Hight. IJ will be watching closely to ensure that it administers the exam fairly—and that Captain Hight can set sail and pursue his dream. ◆

Adam Griffin is an IJ constitutional law fellow.

Getting Free Speech Flying Again in North Carolina

BY JAMES T. KNIGHT II

Regular *Liberty & Law* readers know that the First Amendment protects your right to communicate information to willing customers. In North Carolina, though, this core constitutional principle has flown over the head of at least one government agency. As a result, the North Carolina Board of Examiners for Engineers and Surveyors threatens criminal prosecution of drone operators who simply want to use innovative technology to provide businesses and property owners with information about their own land. In a state famous for its history in flight, drone operators are struggling to get off the ground.

According to the board, drone operators need a land surveyor license if they provide clients with aerial photographs containing any metadata or other information about coordinates or distances. Or if they take aerial photographs and use software to stitch them together. Or if they take photographs of a building

A North Carolina regulatory board is trying to shut down entrepreneur **Michael Jones**, who uses drones to take aerial photographs of his clients' property, by claiming he is surveying without a license. But all Americans have a First Amendment right to communicate information to others, so Michael has teamed up with IJ to challenge the state's surveying law.

In a state famous for its history in flight, drone operators are struggling to get off the ground.

and use software to process them into a 3D digital model. The list goes on.

Michael Jones learned about the board's position the hard way. He runs a one-man photography and videography business in Goldsboro, North Carolina. Around five years ago, he recognized drones' extraordinary potential to capture images and information. So he incorporated drones into his business.

Michael's services included what he calls "mapping." For example, if a property management company wanted weekly aerial shots of its land, Michael would send out his drone, photograph the property piece by piece, and use software to stitch the pictures together to form a comprehensive aerial image. Other times, he would work with real estate agents to take aerial photos of clients' land for marketing purposes.

Businesses in North Carolina saw these offerings as valuable, cutting-edge services. The surveying board saw things differently. In 2018, it sent Michael a letter informing him that he and his business were under investigation for practicing land surveying without a license.

At first, Michael thought the investigation was a misunderstanding. As he told the board, he has never offered to perform what most of us would think of as "surveying." He has never established legal property boundaries, placed survey markers, or claimed his images were legally authoritative. The board told him that none of that mattered. Unless Michael "came into compliance," it warned, he'd face a civil injunction and even criminal charges. And Michael's experience is far from unique: The board has sent similar cease-and-desist warnings to half a dozen drone operators in North Carolina.

Now Michael is fighting back. He's teamed up with IJ to file a First Amendment challenge to North Carolina's surveying law. Drone technology may be new, but the principles at stake are as old as the nation itself. Photographers like Michael want to use drones to create images and information for willing customers. That's speech, and it's protected by the Constitution. With IJ's help, Michael is fighting to get his business back in the air and to help other entrepreneurs with innovative ideas soar in the Tar Heel State. ◆

James T. Knight II is an IJ Law & Liberty Fellow.

Colorado found **Abdallah Batayneh** qualified to run a shuttle company but denied him a permit anyway after existing shuttle companies objected. Now Abdallah has joined with IJ to end Colorado's government-protected transportation monopolies.

PROTECTIONISM TAKES COLORADO TRANSPORTATION ENTREPRENEURS FOR A RIDE

BY WILLIAM ARONIN

Abdallah Batayneh came to America from Jordan with the dream of building a better life for himself and his family. An entrepreneur at heart, he runs his own cleaning company while working full time at a picturesque hot spring in the Colorado mountainside. He loves the natural beauty, and he decided to start his own shuttle service to help visitors explore the region and support local businesses.

Unfortunately for Abdallah, for years, insiders have lobbied states, including Colorado, to enact laws that block transportation entrepreneurs from starting new companies and competing on a level playing field. Here's how it works: First, an entrepreneur has to ask for permission from the state's Public Utilities Commission (PUC) before he or she can start a transportation company. Then the PUC tells existing companies that a newcomer is trying to operate in their territory. Of course, the existing companies object. They petition the PUC to rule that new competition isn't "needed" and to deny the entrepreneur the opportunity to enter the market.

That's exactly what happened to Abdallah when he tried to start his shuttle service. The local transportation cartel intervened in his application, claiming that his company wasn't "required" and complaining that some customers might choose Abdallah's shuttle over their own. The PUC admitted that Abdallah was "operationally, managerially, and financially fit to operate" and that customers weren't satisfied with the existing shuttles' service or rates—and then sided with the insiders anyway, denying Abdallah his right to open a business and compete.

The transportation industry is rife with government-protected monopolies like this, and IJ has been fighting transportation cartels for more than 25 years. In one of our earliest cases, we sued to free taxi entrepreneurs to compete in Denver. It was an uphill battle: No one else was bringing these cases, ride-sharing services didn't exist, and precedent was stacked against us. But we prevailed. In response to IJ's lawsuit, the legislature changed the law and let the city's taxis compete.

Now we are back in Colorado to finish what we started years ago, with a track record of dozens of victories against this kind of protectionism behind us, including 12 for transportation entrepreneurs. We have proved that competition works in Denver, and new technologies have greatly reduced barriers in the transportation industry. When the government still insists on blocking Abdallah and others like him from working, IJ will be there. ◆

William Aronin is an IJ attorney.

IJ Scores an Early Victory Against Qualified Immunity in Texas

BY ANYA BIDWELL

This past September, IJ filed a First Amendment lawsuit on behalf of Sylvia Gonzalez, a Castle Hills, Texas, councilmember who was harassed, bullied, and ultimately thrown in jail by political opponents. Her crime? Pure political speech: helping to organize a petition advocating for the resignation of the Castle Hills city manager.

Seventy-two years old at the time, Sylvia spent a day behind bars, forced to wear an orange shirt and use a doorless bathroom. The charges against Sylvia were nonsensical, accusing her of trying to steal the petition she herself had championed. When the district attorney learned what happened, he dropped the charges. But the reputational and financial damage of the city politicians' campaign to silence Sylvia was done. So she partnered with IJ to hold them accountable—and to ensure that others could do the same.

Predictably, the individuals who violated Sylvia's rights—the mayor, the police chief, and a special detective—claimed qualified immunity. But this March, a district court judge threw out their motion to dismiss IJ's case, a crucial step toward bringing the case to trial.

This was an incredible victory for Sylvia. Qualified immunity—a judge-made doctrine that protects all types of government officials from accountability, even when they intentionally violate the law—is notoriously difficult to overcome. Under qualified immunity, government workers can be held accountable for violating someone's rights only if a court has previously ruled that it was "clearly established" that those precise actions were unconstitutional. If no such decision exists—or if one exists but only in another jurisdiction—the official is immune, even if the official intentionally, maliciously, or unreasonably violated the law or Constitution.

But the judge in Sylvia's case saw through the government's attempt to hide behind qualified immunity. He ruled that the law is indeed clearly established—the government has more than fair warning that throwing people in jail in retaliation for exercising their free speech rights is a violation of the First Amendment.

As expected, Sylvia's opponents are appealing the court's order, asking the 5th U.S. Circuit Court of Appeals to overturn the lower court and give them immunity after all. But we expected that the government would pull out all the stops to evade accountability, and IJ will stand by Sylvia until her rights are vindicated. ◆

Anya Bidwell is an IJ attorney and the Elfie Gallun Fellow for Freedom and the Constitution.

IJ won an early victory this March, when a judge denied qualified immunity to the city officials who jailed IJ client **Sylvia Gonzalez** for criticizing them.

INNOCENT UNTIL PREDICTED GUILTY:

FLORIDA SHERIFF PUNISHES PEOPLE FOR SUSPECTED FUTURE CRIMES

BY CAROLINE GRACE BROTHERS

Though he was completely innocent, **Robert Jones** was targeted by Pasco County after his son was added to the sheriff's office's "prolific offenders" list.

The "predictive policing" program of the Pasco County, Florida, sheriff's office sounds like something ripped from a dystopian novel.

The story starts with a list of people generated by a computer algorithm, which scores county residents based on mentions in police reports, personal history, and relationships. This list is then curated by police analysts and given to deputies with instructions to monitor these people, now officially deemed "prolific offenders" likely to commit crimes in the future.

List in hand, deputies begin to regularly show up unannounced at targets' homes. They ask for—then demand—entry. They interrogate people about their friends, their families, and their comings and goings. If they deem someone uncooperative, they threaten tickets and citations for code violations until the person complies. Then they come back a few days later to do it all again. For the unfortunate residents targeted, the result is near-constant police surveillance and harassment. And for people like IJ client Robert Jones, the consequences are life-altering.

Robert is a father of four who relocated to Pasco County in 2015. One day he was visited by sheriff's deputies wanting to check in on his son. Initially grateful for the offer of help to keep his son on the straight and narrow, Robert invited them in.

The dynamic between the family and the deputies quickly soured. It turned out that Robert's son was on Pasco County's list, and the deputies

In Pasco County, Florida, the sheriff's office uses a computer algorithm to predict who might commit a crime in the future, then harasses their families with constant surveillance and citations. IJ has joined with **Tammy Heilman** (left), **Dalanea Taylor** (right), and other victims of this dystopian policing program to end it for good.

were there to monitor him. Robert's family became the subject of regular unwanted visits, which occured multiple times a week. Encounters became frightening, with police banging on windows while Robert's daughters hid under the bed. Realizing they could not get at his son, deputies turned their focus to Robert—and escalated their tactics. They wrote Robert multiple citations for trivial property code violations like tall grass and not having numbers on his mailbox. They held hearings on the citations without informing him and then arrested him for missing the hearings. After being arrested five times on bogus charges like these in the span of six months, Robert could no longer tolerate the abuse and left the county.

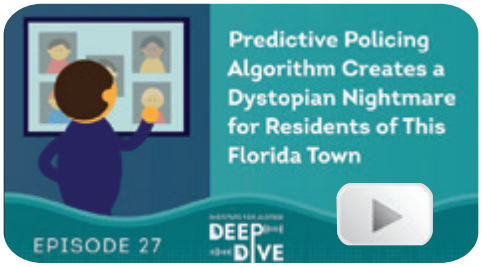
Robert isn't alone, and what happened to him means that the program is working as intended. The sheriff's office is upfront about its goals: It wants the "problem people" on its list out of Pasco County. In the words of a former deputy, officers were under orders to "make [targets'] lives miserable until they move or sue."

Thanks to IJ, the sheriff's office is getting its wish. We're suing. Robert and other Pasco County residents have joined with IJ to file a federal lawsuit challenging the sheriff's unconstitutional predictive policing program.

The Fourth Amendment expressly guarantees the right to be secure in one's own property. That includes the right to be free from warrantless harassing visits to the home by law enforcement officers pursuing hypothetical future crimes. Our case is designed to vindicate that right in the context of this so-called intelligence-led policing program, just as we have in the context of eminent domain, rental inspections, civil forfeiture, and taxation by citation. We will remind Pasco County that in America there is no such thing as innocent until predicted guilty and that the dystopian plotlines need to stay in works of fiction—not policy manuals. ◆

Caroline Grace Brothers is an IJ constitutional law fellow.

The sheriff's office is upfront about its goals: It wants the "problem people" on its list out of Pasco County. In the words of a former deputy, officers were under orders to "make [targets'] lives miserable until they move or sue."



Watch an episode of *Deep Dive* about the case!

iam.ij.org/PASCO

A SWAT team destroyed IJ client **Vicki Baker**'s home while trying to apprehend a fugitive—who had hidden inside—then left her on the hook for the bill.

YOU SWAT IT, YOU BOUGHT IT

BY SURANJAN SEN

Roughly a year ago, the 10th U.S. Circuit Court of Appeals shocked advocates of property rights and government accountability when it held that the government can deliberately destroy an innocent family's house and not compensate them for the damage. IJ sought the U.S. Supreme Court's review, and when it denied cert we resolved to challenge the basis of the 10th Circuit's decision in a future case.

This spring, we filed that case on behalf of Vicki Baker.

For some time, Vicki had wanted to leave the Dallas suburbs. With her children grown, she decided the time had come to fulfill her dream of retiring to Montana. As of last summer, everything seemed to be coming together: Vicki had found a buyer for her house, and in a matter of weeks she would be enjoying a peaceful and financially stable retirement.

On July 25, 2020, however, everything changed. That morning, Vicki's daughter, Deanna, was at her mother's house preparing it for sale when she learned that police were looking for a man suspected of abducting a teenage girl. Deanna recognized the suspect—Vicki and Deanna had hired him months earlier to install some shelves. Then Deanna heard a knock at the door: To her horror, it was the same man, with the missing girl, saying that he needed to use the house. Fearing for her life, Deanna let them inside. She then left and immediately called the police.

Police surrounded the house. After a few hours, the girl left unharmed, but the man remained inside. Deanna had given the police a garage door opener, a code to the back gate, and the keys to the front door so they could get into the house. The police used none of these and decided instead to have a SWAT team storm the house using explosives, toxic gas, and an armored vehicle. Ultimately, the suspect committed suicide before he could be apprehended.

In addition to destroying Vicki's fence and garage door, the SWAT team broke every window in her house, damaged the roof, and burst the pipes. The chemicals from the gas canisters were so toxic that a hazmat

IJ and **Vicki** have joined forces to vindicate the constitutional principle that, when the government takes an innocent person's property to benefit the public, it has to compensate the owner.

team had to dispose of all textiles, and all of the floors, walls, and ceilings needed repair. The assault left Vicki's dog deaf and blind and caused an estimated $80,000 in damage to the house. The buyer, not surprisingly, pulled out of the negotiated deal.

Vicki believes Deanna did the right thing for their community by calling the police—but she did not expect to be left to cover the bill singlehandedly. Vicki's insurance company refused to pay for most repairs, citing a clause that disclaims coverage for damage caused by the government. The city, too, refused to pay. That left Vicki with a substantial loss of her own savings—money that she was counting on for retirement.

If the government never has to pay for the damage when it chooses to use a tank rather than a garage door opener, it has no incentive to use less destructive means to achieve its goals in the future. What's more, the takings clauses of both the U.S. and Texas constitutions affirm that the government can use and even intentionally destroy innocent owners' property for the public good—but it must compensate them for the taking. IJ has teamed up with Vicki to ensure that the government abides by those constitutional rules and that it cannot arbitrarily single out innocent, unlucky private citizens to bear the costs of something that should, rightly, be the burden of society as a whole. ◆

If the government never has to pay for the damage when it chooses to use a tank rather than a garage door opener, it has no incentive to use less destructive means to achieve its goals in the future.

Suranjan Sen is an IJ Law & Liberty Fellow.

Parent Power Expands Educational Choice and Innovation . . .

BY REBEKAH BYDLAK AND RACHELLE ENGEN

As the lawyers for the educational choice movement, IJ has advocated for educational choice in legislatures and courtrooms across the country for nearly three decades. We have seen firsthand the difference that allowing children to pursue an education that works for them can make. And after the past year, parent frustration with the public education status quo is at an all-time high. More families than ever before have begun to rethink how education is provided in the United States, and interest in educational choice programs that offer new and nontraditional alternatives has surged.

Two states, Kentucky and West Virginia, showcase just how much can happen when parents stand up and push for educational opportunity.

More families than ever before have begun to rethink how education is provided in the United States, and interest in educational choice programs that offer new and nontraditional alternatives has surged.

IJ has long worked with legislators and other advocates in both states to establish a foothold for educational choice. Year after year, we and our allies faced intense backlash, union strikes, and legislators who lost their nerve. This year was no different when it came to the intensity of the opposition. Although state capitols were closed to most rallies and in-person visits amid the pandemic, opponents dedicated hundreds of thousands of dollars to demanding that legislators slam the door on reform.

This time, though, the outcome was different.

In Kentucky, IJ worked with allies to craft a flexible, constitutionally sound education savings account (ESA) program. The program would give families accounts that can be used on things like textbooks, tuition, therapies, and tutoring. West Virginia proposed a similar and even more inclusive ESA program, basing it on IJ's model legislation—ensuring it, too, would pass constitutional muster.

Throughout the year, we worked alongside parents in both states, holding virtual trainings and events to introduce them to the proposed programs and help

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Interest in educational choice has surged this year, and IJ has consulted on programs to offer more options to families in 28 states and the District of Columbia.

. . . and IJ Defends Reforms from Coast to Coast

The pandemic has laid bare the problems with a public school monopoly and a one-size-fits-all approach to education. Parents are demanding alternatives, and legislators are responding.

BY MICHAEL BINDAS

As Rebekah and Rachelle describe on page 14, this is shaping up to be a banner year for educational choice legislation. The pandemic has laid bare the problems with a public school monopoly and a one-size-fits-all approach to education. Parents are demanding alternatives, and legislators are responding.

But getting new programs enacted is only the first step in bringing greater educational opportunity to America's kids. The second step is defending those programs when they are challenged in court. So IJ's educational choice litigators have been ramping up to defend 2021's new programs, even as we continue to defend existing programs and the promise of a better education they provide.

In March, the fight took us to the Nevada Supreme Court, where IJ Attorney Josh House argued against an attempt to neuter Nevada's Educational Choice Scholarship Program—a tax-credit scholarship program for low- and middle-income students. At issue is the Nevada Legislature's 2019 repeal, without the constitutionally required supermajority, of an "escalator" provision that gradually grows the program, allowing it to meet increasing costs and serve new children. The argument was lively, with an active bench, and Josh handled it with aplomb. We expect a decision this spring.

In early May, meanwhile, it was off to North Carolina, where IJ is beating back an attempt by educational choice opponents to strike down the Opportunity Scholarship Program for low-income families. Opponents of the program perversely—and bizarrely—argue that by affording parents the option of selecting a school that accords with their religious convictions, the program violates the religious convictions of educational choice opponents. IJ Attorney Ari Bargil argued for dismissal of the lawsuit, and we expect a decision soon.

And in early June, IJ is headed to the Tennessee Supreme Court to defend that state's Education Savings Account Pilot Program. The program is under attack by local government and public education interests, who would sooner see low-income students remain trapped in underperforming public schools than receive a lifeline out of them. IJ's team, led by Senior Attorney Arif Panju, is determined not to let that happen.

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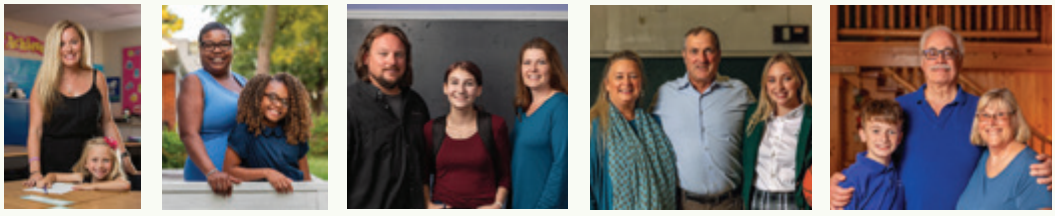

IJ is currently in court defending educational choice programs from Nevada to Vermont. Above are some of the families we are representing as they fight to give their children the best possible education.

Arizona Ignores Its Own Laws to Take $39,500 From an Innocent Traveler

BY ALEXA GERVASI

Small-business owner Jerry Johnson was looking to add a third semi-truck to his fleet when he learned that an auction house near Phoenix, Arizona, was auctioning off several versions of his preferred Peterbilt model. Hoping to negotiate a good deal, Jerry gathered his savings, borrowed money from family members, and boarded a plane from North Carolina to Arizona with $39,500 in cash.

What started as an exciting business trip ended in a gut-wrenching loss when plainclothes detectives—likely acting on a tip from Transportation Security Administration agents about the presence of money in Jerry's luggage—intercepted Jerry at baggage claim and asked whether he was carrying any drugs or large amounts of cash. Jerry told officers about his money and was taken to a back room where officers interrogated him and accused him of money laundering. Jerry tried to explain the purpose of his trip and where the money had come from. The officers weren't interested.

Instead, Jerry was handed an on-the-spot waiver and told to sign it or be arrested. Without a lawyer present and not realizing the waiver disclaimed his ownership of the cash, Jerry signed the form and was sent back to North Carolina without a truck and without his money. He was never charged with a crime. In fact, other than a notice of forfeiture, he was never contacted again by law enforcement. But the officers kept his money.

Once home, Jerry hired an attorney to fight for the return of his property. His efforts were stymied when an Arizona district court ruled that Jerry had no standing to challenge the forfeiture because he had not proven his innocent ownership of the cash. The court then ordered all of Jerry's money forfeited to the state of Arizona without requiring the government to prove that the cash was connected to criminal activity.

By requiring Jerry to prove his own innocence, the court ignored recent reforms to Arizona forfeiture laws and absolved the state of its duty to prove by clear and convincing evidence that Jerry's money was connected to criminal activity *before* forfeiting it. So Jerry has teamed up with IJ to appeal his case to the Arizona Court of Appeals, where we will fight the basic injustice inherent in civil forfeiture—and ensure that what happened to Jerry doesn't happen to anyone else. ◆

Alexa Gervasi is an IJ attorney.

After a district court ignored reforms to Arizona forfeiture laws and let law enforcement keep $39,500 it illegally seized from small-business owner **Jerry Johnson**, Jerry teamed up with IJ to get his money back.

Challenge to Airport Cash Seizures Cleared for Takeoff

BY DAN ALBAN AND JABA TSITSUASHVILI

With IJ's help, Rebecca Brown, Terry Rolin, and Stacy Jones got back the money that was unconstitutionally seized from them at airports. But they, like IJ, want to stop the same thing from happening to anyone else. In March, we achieved a significant victory in pursuit of that goal when a federal court rejected the government's attempt to dismiss our class action lawsuit.

In 2020, IJ filed an ambitious nationwide class action against the Drug Enforcement Administration (DEA) and the Transportation Security Administration (TSA). DEA regularly detains air travelers and takes their money through civil forfeiture without convicting or even charging them with a crime. TSA facilitates those abuses. Its agents unlawfully detain people during security screenings just for traveling with "large" amounts of cash and then turn them over to law enforcement.

That's exactly what the two agencies did to our clients. On a tip from TSA, a DEA officer took over $82,000 from Rebecca. It was her father Terry's life savings, which Rebecca was taking home to deposit in the bank. Similarly, the agencies detained Stacy and took the cash she was traveling with after selling a car to a friend.

IJ's class action lawsuit against the TSA for seizing cash from innocent air travelers like IJ clients **Rebecca Brown** and her father, **Terry Rolin**, can proceed after a federal court rejected the government's attempt to get the case dismissed.

Those agency practices violate the Fourth Amendment because simply traveling with cash does not provide the reasonable suspicion or probable cause the government needs to detain a person or take their property. TSA's conduct also exceeds its statutory authority and distracts from the agency's sole purpose: ensuring transportation security.

The agencies' response? Asking the federal court to toss out all our claims. They argued that our clients could not challenge these practices, that TSA is broadly immune from lawsuits challenging its unconstitutional conduct, and that the identical experiences of so many people at the hands of DEA and TSA personnel could not be attributed to the agencies.

These are arguments that government agencies regularly deploy against IJ's efforts to stop unconstitutional conduct. This time, the judge correctly rejected them all. The case now proceeds to discovery, allowing IJ to uncover agency documents and depose the decisionmakers who oversee these predatory practices. We won't rest until courts put a stop to these abuses. ◆

Dan Alban is an IJ senior attorney and Jaba Tsitsuashvili is an IJ attorney.

Parent Power continued from page 14

them fight for their passage. In Kentucky, allies and parents worked with IJ to share stories in innovative ways, like geo-targeted online ads, video campaigns, and even two outdoor rallies. In West Virginia, we identified parent leaders, trained them to be successful advocates for choice, and worked with them to launch a statewide parent network. And in both states, we assisted parents as they prepared for testimony or drafted op-eds and letters to the editor.

There were many times that the odds seemed daunting and the chances slim, but we didn't give up for one simple reason: Families need choices, especially now.

And families prevailed. Kentucky and West Virginia both passed their ESA programs, opening the door for more than 250,000 students to get a better education. As *Liberty & Law* goes to print, these are the two most expansive ESA programs in the country.

Meanwhile, a record number of states have introduced bills to expand or pass new educational choice programs. Ten states so far have passed these measures, with others like Nebraska, Pennsylvania, and Texas working hard to catch up and pass their own. It is too early to say exactly how many more will join Kentucky and West Virginia, but we know one thing for sure: IJ will be there, working alongside parents and advocates to let children learn. ◆

Rebekah Bydlak is an IJ activism manager and Rachelle Engen is IJ's educational choice fellow.

Case Updates continued from page 15

Were all this activity not enough, IJ is also busy challenging the exclusion of religious options from tuitioning programs in Maine, New Hampshire, and Vermont. These programs allow students from towns that do not maintain a public school to attend another town's public school or a private school of their choice. Families who think a religious school is the best fit for their children, however, are out of luck.

That's a lot of litigation, and we expect to see even more as programs enacted this year are challenged. Defending parents' rights to direct their children's education is hard work, but we have the experience, optimism, and grit to prevail again now, just as we have for 30 years. ◆

Michael Bindas is an IJ senior attorney.

Builguissa Diallo wants her daughter to attend a better school with a scholarship through the Education Savings Account Pilot Program IJ is defending in Tennessee.

IJ MAKES HEADLINES

Read the articles at iam.ij.org/june-2021-headlines

These articles and editorials are just a sample of recent favorable local and national pieces IJ has secured. By getting our message out in print, radio, broadcast, and online media, we show the real-world consequences of government restrictions on individual liberty—and make the case for change to judges, legislators and regulators, and the general public.

THE ARIZONA REPUBLIC

A Man Flew To Phoenix With $39,500 Cash To Buy A Truck; Police Seized It With No Proof

April 17, 2021

RealClear Politics

States Start Tackling Police Reform Amid National Impasse

April 3, 2021

Pittsburgh Post-Gazette

Retiree's Lawsuit Can Proceed Over $82K Seized At Pittsburgh Airport, Court Says

March 31, 2021

Tampa Bay Times

Lawsuit: Pasco Intelligence Program Violated Citizens' Rights

March 11, 2021

THE DENVER POST

"I Got Denied To Protect Another Company": Lawsuit Takes Aim At Colorado Law Limiting Shuttle Competition

March 9, 2021

THE WALL STREET JOURNAL.

The Supreme Court Has Unfinished School-Choice Business

March 17, 2021

milwaukee journal sentinel

A Sussex Teen Was Told Her Macaron Business Is Illegal. Now She's Joined A Lawsuit With 300 Other Bakers To Fight The Ruling.

March 8, 2021

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