



LIBERTY & LAW

December 2021
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30 YEARS
1991-2021

His Past Barred Him From Working **Now He Deserves a Fresh Start**

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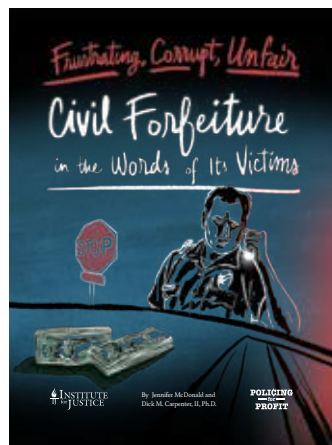
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About the publication:

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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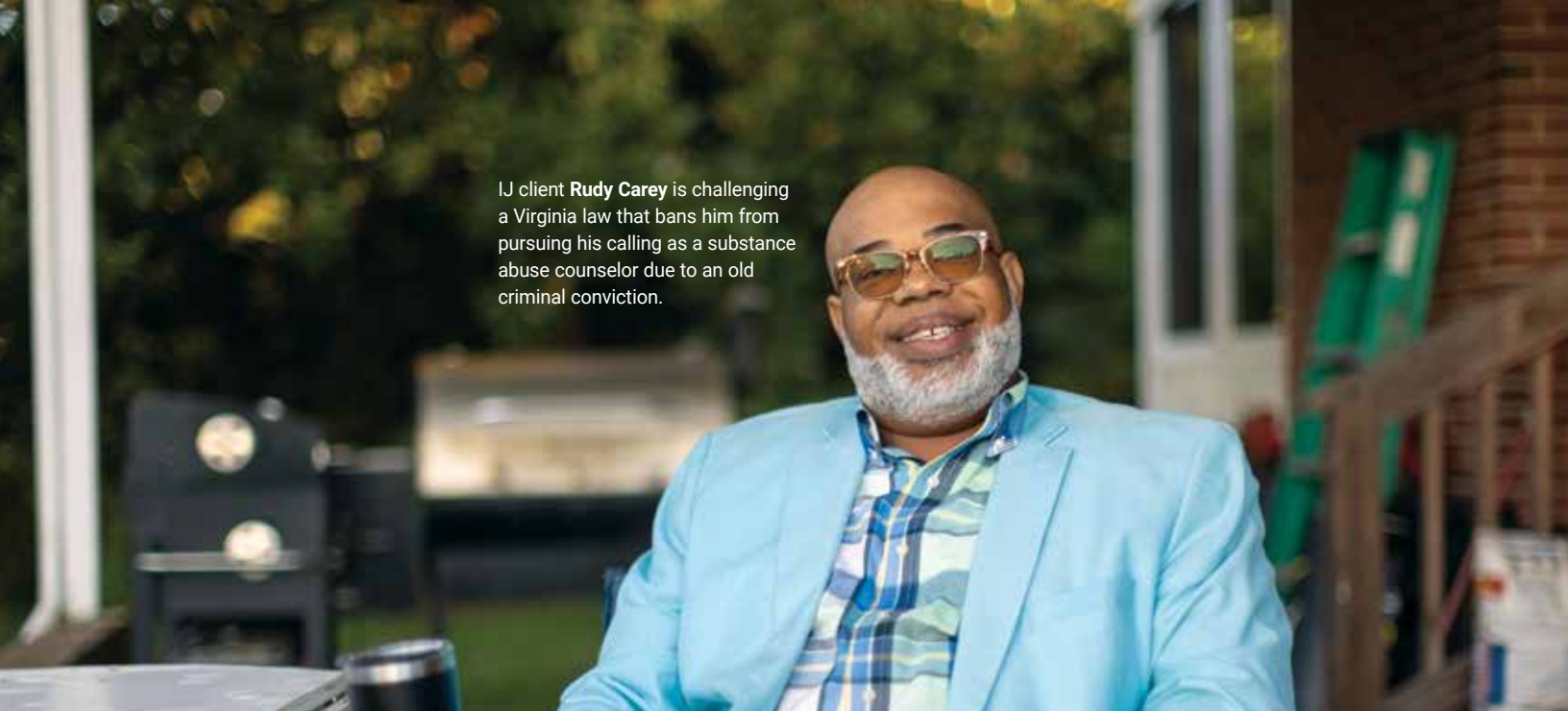
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IJ client **Rudy Carey** is challenging a Virginia law that bans him from pursuing his calling as a substance abuse counselor due to an old criminal conviction.

Good Counsel:

IJ Challenges Virginia's "Barrier Crime" Law

BY ANDREW WARD

Across the country, there are tens of thousands of laws that ban people from working because of their criminal histories. Sometimes precise, narrow laws are justified. But, more often, these laws amount to permanent punishments that block people from supporting themselves because of old, irrelevant convictions. IJ's defense of economic liberty has led us to challenge egregious examples of these laws in Pennsylvania and California. Our latest case on behalf of a client seeking a fresh start takes us to Virginia.

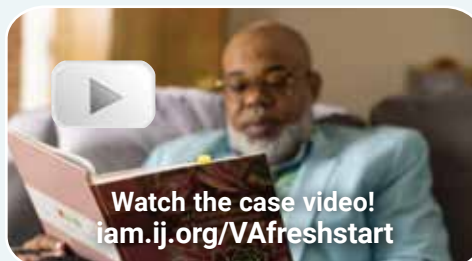
Rudy Carey is everything you could want in a substance abuse counselor. He did the job for five years. His patients loved him. He even won a counselor of the year award. The reason he's so good? He's been there himself.

Decades ago, Rudy struggled with drugs and alcohol and even spent time in prison. But thanks to a great rehab

program, he overcame his addiction in 2007, stayed sober, and turned his life around. After working his way up in fast food and going back to school, Rudy found a calling in counseling, giving to others the same kind of help that had so helped him.

But in 2018, Rudy's dream job—and all the good it did in his Fredericksburg, Virginia, community—ended after five years because of something called a "barrier crime" law. In Virginia, there are 176 separate barrier crimes for substance abuse counselors, and conviction for any one of them generally means a lifetime ban. In Rudy's case, 14 years earlier, in his old life, he'd struck a police officer while trying to run away during a traffic stop. Rudy's employer knew about his conviction and, misunderstanding the law, hired him to work anyway. But then a decree came down from the state: Because of that single 2004 conviction, Rudy had to go.

Today, rather than use his hard-won expertise to help



Laws blocking people from working must at least be rational. And preventing a highly qualified counselor from doing much-needed work because of a single irrelevant mistake more than a decade ago? That's not rational.

others as a counselor, Rudy spends long weeks away from his family as a trucker. And he's not the only person affected by the barrier crime law. In just the past three years, it has stopped more than 1,000 Virginians from working as substance abuse counselors or in other professions. The state itself admits this doesn't make sense. Drug abuse in Virginia is a serious health problem. Blocking people with "invaluable" experience—that's the state's word—worsens the shortage of qualified counselors.

That's why Rudy joined IJ to challenge Virginia's ban in federal court. Laws blocking people from working must at least be rational. And preventing a highly qualified counselor from doing much-needed work because of a single irrelevant mistake more than a decade ago? That's not rational. If anything, laws like this are counterproductive. By preventing people from getting back on their feet and supporting themselves, these permanent punishments lead to more unemployment, more state assistance, and, ultimately, more crime.

Until that changes, IJ will keep suing. People with criminal records who have done their time should be able to find their way back to being free, responsible, and self-sufficient. People like Rudy have earned a second chance at making an honest living. And IJ will keep fighting until they get it. ♦

Andrew Ward is
an IJ attorney.



Amanda Spillane and IJ overturned a Pennsylvania law that stopped those with criminal records from earning an honest living. Now she's finally received her esthetician's license.

IJ Victory Means FRESH START for Pennsylvania Mom

IJ's goal in Virginia is to replicate for Rudy and those like him the success we had in Pennsylvania just last year. In our case there, we represented two women denied esthetician's licenses for supposedly lacking "good moral character" because of their old criminal histories.

We won our campaign after two years of grueling litigation, proving the law so thoroughly irrational that an appeals court struck it down on its face, the government admitted that the law was unconstitutional, and the legislature enacted sweeping reform eliminating "good moral character" clauses for other professions throughout Pennsylvania.

Today, we can share even more happy news for the holidays. One of our clients, Amanda Spillane, recently received her license. Paperwork in hand, she has a bright new year ahead of her. It took an administrative slog, a constitutional lawsuit, and seven years from when she first applied. But thanks to IJ and your generosity, Amanda is finally positioned to support herself and her new daughter in the career she has aspired to for so long. ♦

A large, stylized eye graphic in shades of blue and grey, with a large pupil and a curved eyelid, positioned at the top of the page.

NEW IJ PROJECT SEEKS TO SECURE FOURTH AMENDMENT RIGHTS

BY ROBERT FROMMER

Private property is the bedrock of the American Dream. It's why generations have toiled, scrimped, and saved for themselves and their posterity. And it's why IJ has fought for decades against policies that let government officials take people's property. The Framers of the U.S. Constitution understood that property isn't really yours if the government can take it on a whim or to line someone else's pocket.

The Framers also understood that Americans can never feel secure in their property if officials can enter and search at will. After all, one major cause of the American Revolution was British officials' use of general warrants to break into colonists' homes and businesses. The Framers ratified the Fourth Amendment to prevent similar abuses by the new United States.

At first, things went well. But as Prohibition and the War on Drugs arose in the 20th century, judges whittled away search and seizure protections in favor of efficient law enforcement. Worse, they cast off the Fourth Amendment's property rights focus and elected to scrutinize officials' conduct only if it violated a person's "reasonable expectation of privacy."

Unsurprisingly, courts applying that confusing, ahistorical test dramatically weakened the rights the Fourth Amendment was designed to protect. They opened all land that isn't your house and the few feet around it to government snooping with the "open fields" doctrine. They determined that any information shared with others loses all constitutional protection with the "third party" doctrine. They sanctioned entry

to homes and apartments based on generic "administrative warrants" that don't identify any problem requiring inspection.

IJ's own search and seizure cases show the sad state of our Fourth Amendment rights.

Carole Hinders was an honest businesswoman, but after IRS officials accessed her banking records without a warrant, they used civil forfeiture to seize her restaurant's savings based only on how she deposited her receipts.

Tennessee officials routinely entered Terry Rainwaters' farmland to search for hunting violations, even installing cameras on his property, without suspicion or a warrant.

Pasco County, Florida, police hounded Robert Jones with "prolific offender checks" after a computer algorithm said a family member might commit crimes in the future.

And the FBI seized Joseph Ruiz's life savings at U.S. Private Vaults, even though it had no reason to suspect Joseph or any safety deposit box owner of wrongdoing, simply because agents saw his desire for financial privacy as inherently suspicious.

IJ's new Project on the Fourth Amendment exists precisely because—like Carole, Terry, Robert, and Joseph—every American is now at risk of government searches, seizures, and surveillance.

In the months and years to come, IJ will take aim at doctrines that permit the horror stories IJ clients have experienced. We will persuade courts to replace the confusing, contradictory, and wildly inadequate Fourth Amendment rules that currently exist with an approach to search and



IJ'S PROJECT ON THE
FOURTH AMENDMENT

IJ'S NEW PROJECT ON THE FOURTH AMENDMENT EXISTS PRECISELY BECAUSE—LIKE IJ'S CLIENTS—EVERY AMERICAN IS NOW AT RISK OF GOVERNMENT SEARCHES, SEIZURES, AND SURVEILLANCE.

IJ has defended many clients who faced violations of their Fourth Amendment rights. Our new project will reinvigorate the Amendment's powerful protection against government searches, seizures, and surveillance.

seizure law that is simple to understand, consistent with original understanding, and broadly protective of our right to be secure in our persons and property.

This is an ambitious goal. But the need is urgent. Americans should not have to live with the knowledge that anything we do, say, share, or earn is fair game to prying officials on the hunt for wrongdoing. And, as with occupational licensing, educational choice, eminent domain abuse, civil forfeiture, and more, IJ is uniquely positioned to take decisive action and give life to the protections the Fourth Amendment was drafted to secure. ♦

Robert Frommer is an IJ senior attorney.



Fighting the War on Digital Cash

At the same time that IJ is fighting for constitutional protections for physical property, we are tackling warrantless government searches in the digital realm as well.

The Financial Crimes Enforcement Network (FinCEN) oversees the federal government's financial surveillance program. FinCEN receives vast amounts of information from the traditional banking sector, as banks are required by law to file reports on their customers.

Cash falls outside that surveillance program, so the government dislikes it. As regular readers of *Liberty & Law* are aware, the government routinely treats cash as if it were criminal—seizing large amounts of cash and forcing its holders to prove their innocence. (See page 14 for just one example.) And cryptocurrency, like cash, allows holders to engage in transactions outside the reach of existing reporting laws.

So late last year, FinCEN proposed a regulation that would subject cryptocurrencies to significant new reporting requirements. The reports would allow the government to match up cryptocurrency wallets with their individual owners, providing a key to track every transaction by those individuals.

FinCEN is required by law to accept public comments on its proposal, and those comments are the first step toward a legal challenge. IJ took advantage of that opportunity to submit a comment and deliver a warning: FinCEN's proposal raises serious constitutional concerns. The Fourth Amendment protects your "papers" from unreasonable government searches, and that includes your financial records.

Whether the government wants to search and seize your physical cash or track your cryptocurrency, the requirement should be the same: Get a warrant. ♦





IJ client **Jeremy Bennett** is facing criminal prosecution simply for asking wildlife officials conducting warrantless inspections to come back when his taxidermy shop was open.

OHIO TAXIDERMIST PUTS SKIN IN THE GAME TO DEFEND FOURTH AMENDMENT RIGHTS

BY JOSHUA WINDHAM

When an Ohio wildlife officer showed up at Jeremy Bennett's taxidermy shop last year, Jeremy made what he thought was a simple request. "We're closed for the season," he told the officer. "We don't open up for another few weeks, but you're welcome to come back when we do." Without saying much more, the officer left, and Jeremy thought that was the end of the matter.

It was not. Three months later, Jeremy received notice that he was being criminally prosecuted for refusing to allow an inspection of his taxidermy shop. The possible penalties? A fine of up to \$2,000 and six months in jail.

For years, Ohio wildlife officers had asserted increasingly broad authority to inspect Jeremy's taxidermy shop.

Jeremy was outraged but not entirely surprised. For years, Ohio wildlife officers had asserted increasingly broad authority to inspect Jeremy's taxidermy shop. They entered without his consent

or a warrant. And once inside, they spent hours snooping around Jeremy's private rooms, opening his cabinets and drawers, and rifling through his papers.

Ohio is not conducting some sort of health or safety inspection. Indeed, the state doesn't license or regulate the practice of taxidermy in any way, so there would be nothing for the officers to check for.

Instead, they are looking for bookkeeping violations. Ohio—presumably to catch hunters who are violating the state's hunting laws—requires taxidermists

Officers can show up at any time they deem “reasonable”—even when Jeremy’s shop is closed. They can enter without a warrant, no judicial signoff required, and spend hours wandering around, with no limits on what they can touch, open, or look through.

to keep records of the animals they work on. Wildlife officers, in turn, are granted broad power to inspect taxidermy shops, without a warrant, “at all reasonable hours.”

To Jeremy, these searches are anything but reasonable. Jeremy built his taxidermy shop by hand, just a few hundred feet from his home, where he and his wife homeschool their five young children. The kids often stop by the shop to spend time with dad, deliver a message from mom, or play in the surrounding yard.

In short, Jeremy’s taxidermy shop is a private place, and anyone who visits would know that: Jeremy has posted signs on the front door that read “ENTRY BY APPOINTMENT ONLY. PRIVATE PREMISES.”

But to Ohio’s wildlife officers, none of that matters. Officers can show up at any time they deem “reasonable”—even when Jeremy’s shop is closed. They can enter without a warrant, no judicial signoff required, and spend hours wandering around, with no limits on what they can touch, open, or look through.

If Jeremy objects for any reason at all, they can charge him with a crime and threaten to put him in jail.

That is unconstitutional. The Fourth Amendment forbids warrantless searches, and it forbids the government from criminally prosecuting people for saying “no” when

officials show up and demand entry.

Unfortunately, courts nationwide often accord businesses virtually no Fourth Amendment protection. And they do this despite the U.S. Supreme Court’s warning that very few businesses—only those that are both

ultrahazardous and heavily regulated—may be inspected without a warrant.


In November, IJ filed a lawsuit on Jeremy’s behalf to challenge Ohio’s warrantless inspections of his shop. Our message is simple: People don’t give up their Fourth Amendment rights when they open a business, and it’s time that the courts take the rights of all Americans seriously—at home and at work. ♦



IJ and **Jeremy** are challenging Ohio’s warrantless inspections of his shop because businesses are not exempt from Fourth Amendment protection.

Joshua Windham is
an IJ attorney.





SMALL HOMES FACE BIG OBSTACLES IN THE PEACH STATE

BY JOE GAY

At IJ, we know that local governments are showing increasing disdain for property rights. We have seen ordinances that outlaw front-yard vegetable gardens, ban home businesses, and even prevent businesses from placing signage in their own windows. When we fight back, we advocate for a straightforward principle: People should be able to live and work on their property free from unnecessary government intrusion.

One especially pernicious new trend is to ban people from building small homes on their own property. Instead, some cities and towns force people to build homes that satisfy a certain “minimum square footage” requirement—even if the resulting home is bigger and more expensive than the property owner wants. That is the case in the Atlanta suburb of Calhoun, Georgia, where IJ filed a new lawsuit in October.

Calhoun is a poor town, with 20% of the population living under

Cindy Tucker, executive director of the nonprofit Tiny House Hand Up, has teamed up with IJ to challenge a Georgia town's ban on small, affordable homes.



the poverty line. Many of these people have rented their entire lives. The nonprofit Tiny House Hand Up (THHU) and its executive director, Cindy Tucker, want to put homeownership within reach for them. THHU's insight was simple and elegant: Build beautiful Southern-style cottages similar to homes used in the region for generations. By focusing on modestly sized one- or two-bedroom homes with 540–600 square feet of living space, THHU could build homes that are naturally affordable—no government subsidies required. The logic is clear: Smaller homes simply cost less to build.

Cindy and THHU have everything they need to move forward with building these small, affordable homes in Calhoun. They have eight acres of land zoned for about 30 houses. They have plans for the homes they want to build. And they have financial backing and contractors at the ready to do the building.

The one thing standing in their way? The city of Calhoun. Its zoning code does not just regulate how tall your house can be or how close it can be to the property line. Calhoun also says that homes are not allowed to be “too small.” All new single family homes in Calhoun must have a floor area of at least 1,150 square feet; some parts of town even require a minimum of 1,800 square feet.

But banning modestly sized homes is both arbitrary and unconstitutional. Georgia's constitution requires zoning laws to be substantially related to public health, safety, morality, or general welfare. Calhoun's ban serves no purpose other than to exclude homes that the city thinks do not cost enough to build. Building codes recognize that homes much smaller than 1,150 square feet are perfectly safe. As for aesthetics, property owners are free to build hideous homes so long as they are big enough. But stylish yet simple homes are banned only because Calhoun deems them too small.

That's why THHU and IJ have joined forces to put an end to Calhoun's unconstitutional ban on modestly sized, affordable homes. A victory will not just help THHU advance its mission of providing grassroots solutions to unaffordable housing. It will also put municipalities in Georgia and around the country on notice that zoning codes are not a free pass to violate constitutional rights. ♦

Joe Gay is an IJ attorney.



IJ Earns Top Marks From America's Premier Charity Evaluator Two Decades Running

For the 20th consecutive year, Charity Navigator has awarded the Institute for Justice its highest four-star rating for our commitment to financial health, accountability, and transparency. Charity Navigator is America's largest and most trusted nonprofit evaluator, and its consistently exceptional rating for IJ is yet more proof that a donation to IJ is a sound investment in securing freedom and justice for all.

Within the elite group of top-rated charities, IJ stands out for our peerless stewardship of donor money. Among thousands of star-rated charities, only IJ and one other organization have received the highest rating for 20 years in a row, with IJ ranked at the very top of this list. According to Charity Navigator, this marks IJ as an organization “well-positioned to pursue and achieve long-term change.”

And Charity Navigator isn't the only charity evaluator taking notice of IJ's commitment to excellence. GuideStar, another respected charity evaluator, has given IJ its Gold Seal of Transparency, and GreatNonprofits, a Yelp-like review site for charities, has named us a 2021 Top-Rated organization thanks to our outstanding donor reviews.

Honors like these help spread the word about IJ's efficacy and commitment to our donors, encouraging both new and longtime supporters to fund our work for many years to come. ♦





Farmer **Joe Marino** (pictured) and his brother, Russell, are facing potentially ruinous fines from the Department of Labor—and the only judges allowed to hear their case are Department employees.

ESCAPE FROM THE DEPARTMENT OF LABOR:

FAMILY FARMERS FIGHT TO SEE AN INDEPENDENT JUDGE

BY ROB JOHNSON

Joe and Russell Marino have spent the past five years trapped by the U.S. Department of Labor (DOL). The agency claims they owe hundreds of thousands of dollars in fines and penalties—enough to destroy their family farm—and has tied them up for years in agency proceedings designed to ensure that they lose.

The nightmare began in early 2016, when DOL officials came to the Marinos' farm in southern New Jersey to deliver a letter demanding more than \$550,000 in penalties. The Marinos were in their first year participating in the H-2A visa program, which allows farms to legally employ foreign workers, and the DOL accused the Marinos of a handful of regulatory violations. The bulk of

the fine assessment was for a paperwork mistake: When the Marinos filled out the form to participate in the program, they did not correctly describe their employee meal plan.

To be clear, there is nothing illegal about the Marinos' meal plan. In fact, the Marinos have continued to offer that same plan in subsequent years without the DOL raising any concerns. But the DOL's objections to how they described the meal plan on their paperwork meant an eye-watering half-million-dollar sanction.

Unable to pay \$550,000, the Marinos decided to fight.

They found themselves hauled before a DOL administrative law judge, or "ALJ." Unlike real federal judges, who are part of an independent

THE DEPARTMENT OF LABOR'S OBJECTIONS TO HOW THE MARINOS DESCRIBED THEIR WORKERS' MEAL PLAN ON THEIR PAPERWORK MEANT AN EYE-WATERING HALF-MILLION-DOLLAR SANCTION.

third branch of government, ALJs are DOL employees. The ALJ in the Marinos' case has worked at the DOL practically her entire legal career—first as a prosecutor, later as a judge. It may come as no surprise, then, that she upheld the DOL penalty as “rational” and “reasonable.”

In addition to employing its own judges, the DOL also has its own appellate court. So when the Marinos appealed the ALJ's decision, their appeal was heard by the Administrative Review Board—a panel of still more DOL employees.

And again, the DOL employees upheld the DOL penalty.

Unfortunately, the Marinos' experience is far from unique. Before the 1970s, federal agencies seeking to impose monetary penalties almost always filed a case in federal court. Today, agencies routinely bring such cases before their own ALJs. It's easy to see why. One 2015 article about Securities and Exchange Commission ALJs noted that, before its own judges, the agency enjoyed a win rate of 90%.

That's why IJ is representing the Marinos in a constitutional lawsuit. We're demanding that they get their day in a real federal court, with a real federal judge and a jury of their peers. Article III of the

Constitution vests the federal government's “judicial power” in a system of independent courts. The Seventh Amendment further guarantees the right to trial by jury. These provisions cannot be squared with a system in which an administrative



The **Marinos** have joined with IJ to vindicate their constitutional right to an independent judge and jury.

agency appoints itself prosecutor, judge, and jury.

Success for the Marinos will reverse that trend. And rightly so. If an agency wants to destroy a family business by imposing ruinous fines, then, at the very least, the agency should have to prove its case before an independent judge. ♦

Rob Johnson is an IJ senior attorney.



Cash Is Not a Crime:

IJ Takes on Houston's Civil Forfeiture Machine

BY WESLEY HOTTOT

Ameal Woods was on his way to Houston chasing a dream. A truck driver for many years, Ameal was ready to start his own business and become a truck owner. With help from his wife, Jordan Davis, he'd saved \$40,000 cash and was traveling to buy a used tractor-trailer.

But Ameal's hopes were dashed when Harris County police seized his money on the side of I-10. Officers pulled him over for allegedly following a tractor-trailer too closely—something that, as a truck driver himself, Ameal knows he did not do. When officers found that he was traveling with cash, however, their focus shifted to the money and concerns about following distance evaporated. Ultimately, they let Ameal go without so much as a warning—and with only a receipt reading “currency seizure” in the place of his and Jordan's life savings.

What Ameal did was legal: He drove with cash. What the police did was illegal: They took his cash without probable cause.

Using Texas' civil forfeiture law, prosecutors now want to keep Ameal and Jordan's money without charging either of them with a crime. IJ is fighting back to defend Ameal and Jordan and dismantle Houston's civil forfeiture machine.

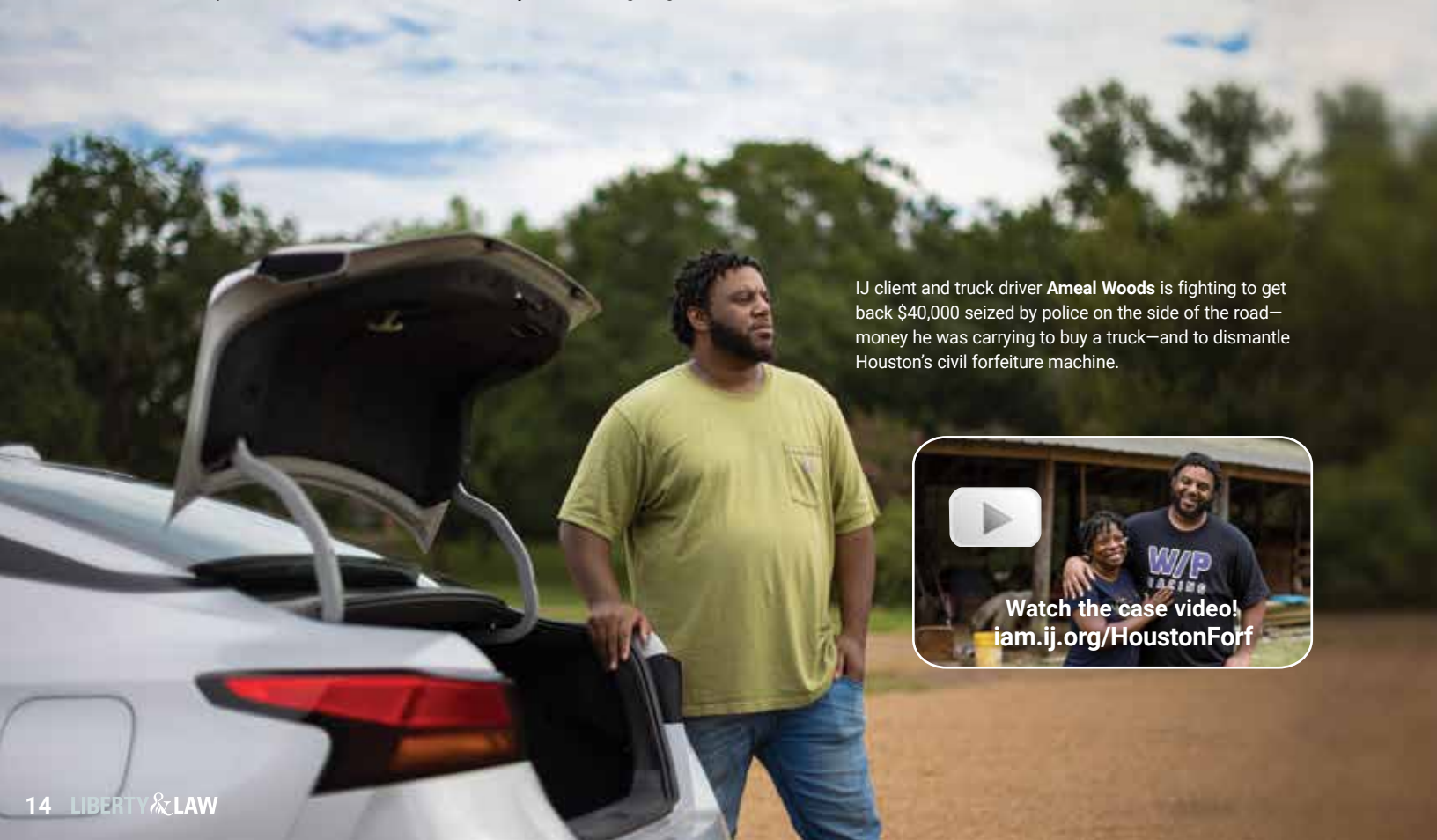
Texas' most populous city has set up perhaps the worst forfeiture system anywhere in the nation. Police seize property without probable cause. After the fact, they have a drug dog

alert on the property. Prosecutors then file a civil lawsuit against the property (not its owner) using cut-and-paste allegations. IJ analyzed 113 Houston forfeiture cases, and each one repeated the same lines to support the forfeitures, usually including the same language word for word.

Making matters worse, police and prosecutors in Texas use the money from civil forfeiture to pay their own salaries. With this profit incentive at its heart, it is clear that Houston's civil forfeiture machine is designed to do one thing: make money for the police and prosecutors who control it.

In addition to fighting for Ameal and Jordan, IJ is bringing our case as a class action lawsuit to provide immediate relief to the hundreds of people who have fallen victim to these outrageous practices. Our goal is to take this case all the way to the Texas Supreme Court, win a decisive victory affirming the right to travel with cash, and dismantle Houston's unconstitutional forfeiture scheme once and for all. ♦

Wesley Hottot is an IJ senior attorney.



IJ client and truck driver **Ameal Woods** is fighting to get back \$40,000 seized by police on the side of the road—money he was carrying to buy a truck—and to dismantle Houston's civil forfeiture machine.



Motel Closure Case Is a Roller Coaster Ride of Government Harm and Deception

BY JEFF ROWES

We're used to IJ cases taking unexpected twists and turns, but occasionally something truly dizzying happens. That is the situation in a new IJ economic liberty case on behalf of two independent motels nestled in Tillamook County on Oregon's rough southern coast. When the pandemic hit, both motels sprang into action to ensure guest health and safety. Ultimately, though, in late March 2020, Tillamook County ordered lodging for everyone but essential workers to close. Our clients reluctantly complied, believing that they could safely remain open but also ready to obey the law.

Then, in May 2020, a small town inside Tillamook County voted to defy the county's closure and reopen lodging to the public. The county threatened a lawsuit but did nothing except demand that everyone else in the county remain closed.

That was too much for our clients. Fearing bankruptcy, the motels brought a constitutional lawsuit in federal court. IJ decided to take this case to trial on the motels' claim that similar businesses should be treated similarly under the law. The case isn't fundamentally about whether COVID-19 was serious enough to warrant lodging closures. It's about whether the Constitution requires the government to enforce regulations—whatever they are—evenhandedly. That's a core economic liberty question.

As we were preparing our case, something truly astonishing happened. During a deposition, a county commissioner testified that the lodging closure had, in fact, been a sham. No one had been required to close. Rather, mandatory-seeming language in the closure order

was a sleight of hand designed to mislead citizens into believing a law existed when, in fact, it didn't. Throughout the pandemic, the county had been deceiving the public, our clients, and the court.

This deception raises grave constitutional questions. Can the government trick you into closing your business?

Can the government give up pretending that a law is real in one place—by doing nothing when the one town's motels reopened—but double down and continue to insist that the law is real in others, even though it isn't?

The U.S. Supreme Court has long made clear that Americans have a right to expect "some minimum standard of decency, honor, and reliability in their dealings with their Government." Tillamook County appears to have fallen short of that minimum. We scrambled to present this new evidence, but the court entered final judgment for the county on a separate legal question just days after the deposition. We filed a motion to reopen the case based on the new evidence in September.

IJ went into this case intending to vindicate the fundamental principle that the government must enforce regulations equally. We're now in a fight over an even more fundamental principle: The government cannot encroach on our liberty through deception and

manipulation, perhaps especially when it believes that deceiving us is for our own good. An honest government is dangerous enough. A dishonest one is intolerable. ♦

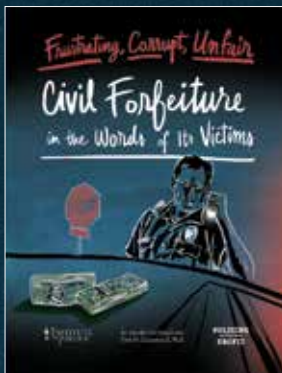
Jeff Rows is an IJ senior attorney.



The **Mankins** (above) and **Williams** (below) families, owners of two independent motels on the Oregon coast, are fighting to ensure Tillamook County treats their businesses fairly—and have uncovered shocking government deception.



New IJ Research Gives Forfeiture Victims a Voice



Read the report:
ij.org/report/frustrating-corrupt-unfair

BY MINDY MENJOU

Over the years, *Liberty & Law* readers have met many civil forfeiture victims and been horrified by their stories. But forfeiture proponents are quick to suggest such stories are regrettable exceptions—not the norm.

Thanks to IJ's latest strategic research report, *Frustrating, Corrupt, Unfair: Civil Forfeiture in the Words of Its Victims*, we now have systematic data to counter that claim. The first-of-its-kind report describes the overwhelmingly negative experiences of victims of Philadelphia's forfeiture program. And the challenges these people faced are common to forfeiture programs nationwide.

The report was made possible by IJ's federal class action lawsuit against Philadelphia. As part of the consent decree ending the city's forfeiture machine, the city provided contact information for more than 30,000 victims of its program. We surveyed those victims, gathering data from 407.

We found victims disproportionately came from disadvantaged communities and had extreme difficulty

Among 280 victims who lost their property permanently to forfeiture, only 25% were ever found guilty of wrongdoing.



*Includes a small number of individuals whose charges were still pending at the time of our survey or who did not know the final disposition of their case.

We found that law enforcement used forfeiture to shake down innocent people and minor offenders, not to fight serious crime. Half of seizures were worth less than \$600, and police seized as little as \$25 in cash, a \$20 cologne gift set, and crutches—hardly the stuff of drug kingpins.

fighting for their property, even when innocent. The working poor frequently gave up, often because they couldn't attend the many required court appearances. People with less education were also far less likely to win their property back.

We found that law enforcement used forfeiture to shake down innocent people and minor offenders, not to fight serious crime. Half of seizures were worth less than \$600, and police seized as little as \$25 in cash, a \$20 cologne gift set, and crutches—hardly the stuff of drug kingpins. And people's guilt or innocence had little bearing on whether they won or lost: Only one person in four was ever convicted, yet 69% lost property forever.

These findings speak to fundamental problems with civil forfeiture extending far beyond

Philadelphia. Indeed, although IJ ended the worst excesses of Philadelphia's program, the program wouldn't have existed but for Pennsylvania laws making forfeiture easy and lucrative. As we know from *Policing for Profit*, most states and the federal government have similarly terrible laws.

As long as that's the case, innocent people's property will remain at risk. That's why we're working hard to get the word out to state and federal legislators that civil forfeiture is, in its victims'

words, frustrating, corrupt, and unfair—and it must end. ♦



Watch the report video!
iam.ij.org/WordsOfVictims

Mindy Menjou is IJ's research publications manager.



LONGTIME DONOR OR NEW SUPPORTER?

IJ HAS A CHALLENGE GRANT TO MAKE YOUR GIFT GO EVEN FURTHER

BY MELANIE HILDRETH

The Institute for Justice is the grateful beneficiary of not one but two challenge grants designed to make your end-of-year giving go even further in the fight for constitutional rights.

Because of individuals like you, IJ represents clients and takes on cases like those you read about in this and every issue of *Liberty & Law*. Now thanks to two challenge grants from two different longtime supporters, your gift to IJ will go even further.

\$1 MILLION NEW DONOR CHALLENGE

If you haven't yet made a gift to IJ, there has never been a better time to join our fight. An anonymous donor has pledged to match, dollar for dollar, the gifts of all new IJ donors.

Though we met the initial \$1 million goal this summer, the challenge grant donor has issued an additional \$500,000 in matching funds to help build the base of support that is essential to IJ's future growth. Please consider making a gift or referring a friend to help IJ make the most of this exciting opportunity.

\$3 MILLION STEADFAST SUPPORTER CHALLENGE

If you are a current IJ donor hoping to leverage your giving, never fear! Recognizing the vital importance of a diverse and consistent donor base to the ongoing success of any organization, a second anonymous donor has pledged \$3 million to match the contributions of existing donors. Through this grant, if you are a current IJ donor, your gift will be matched 50 cents on the dollar, up to \$25,000 per gift. That means your donation of \$1,000 generates an additional \$500 for IJ, \$5,000 earns another \$2,500, and so on.

The combination of these two grants means that no matter who you are, you can rest assured that your gift to IJ will have the maximum impact on our ability to fight widespread government abuses and help ordinary Americans achieve their dreams.

If you would like to discuss your year-end giving or other support for IJ, simply email donations@ij.org or call (703) 682-9323, ext. 399, and our development team would be happy to help you. Many thanks for your consideration and your support. ♦

Melanie Hildreth is IJ's vice president
for external relations.



IJ MAKES 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.

Read the articles at
[iam.ij.org/
december-2021-headlines](http://iam.ij.org/december-2021-headlines)



DAILY NEWS

**The Right To Paint A
Coffee-Shop Mural**

October 12, 2021

THE WALL STREET JOURNAL

**Cake Liberation Day:
A Victory In New Jersey For People Who
Want To Sell What They Bake**

October 6, 2021

The Free Lance-Star

**Commentary: Virginia Agency
Won't Give Trucker A Fresh Start**

October 6, 2021

The New York Times

**Former Shoe Shiner Wins Back Nearly
\$30,000 Seized By Federal Agents**

October 31, 2021

USA TODAY

**Philadelphia Police Seized Their
Property. Most Were Never
Convicted Of A Crime. Most
Never Got Their Stuff Back.**

October 20, 2021

The Washington Post

**Opinion: It's Hard To Hold Police
Accountable. For Federal Agents,
It's All But Impossible.**

September 22, 2021

Bloomberg Law

**Power Of DOL Administrative Judges
Faces Federal Court Challenge**

September 8, 2021

courier journal

**Education Opportunity Accounts,
Kentucky's School-Choice Measure,
Goes Before Judge**

September 16, 2021



IJ Video Wins Prestigious Award

This October, IJ took home the "Best in Show" award in the Non-Profit category at the w3 Awards, one of the premier honors recognizing "digital excellence."

IJ's introductory video, "IJ Helps Ordinary People Fight Back," was one of more than 3,000 entries and one of only 34 to receive Best in Show. The two-minute video highlights the stories of IJ clients from various walks of life, sharing in their own words what IJ's help means to them in their fight for individual liberty.

The award marks the ninth time IJ has claimed a trophy at w3, and it is the 58th honor or accolade for communications work in IJ's 30-year history. You can watch the award-winning video at ij.org/intro-video.

When I flew to buy a truck for my new business,
DEA agents seized my money at the airport.

But it's not illegal to travel with cash,
and I wasn't charged with any crime.

I joined with IJ to get my life savings
back and to stop civil forfeiture.

And I won.

I am IJ.

