



**LIBERTY & LAW**

October 2023

Volume 32 Issue 5

# VICTORY!

## Courthouse Doors Reopened for Forfeiture Victims

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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 illustrates and extends the benefits of freedom to those whose full enjoyment of liberty is denied by government.

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# VICTORY!

## Courthouse Doors Reopened for Forfeiture Victims

BY PAUL SHERMAN

When Rochester, New York, police raided Cristal Starling's apartment and seized more than \$8,000 for civil forfeiture, she believed her dreams of opening a food truck were over. Her hopes plummeted further when a federal judge held that a deadline Cristal missed while challenging that forfeiture without the help of a lawyer meant she had lost her money forever. But now, thanks to an IJ victory, Cristal will finally get her day in court.

Cristal's problems began in October 2020, when Rochester police raided her apartment on the suspicion that her then-boyfriend was dealing drugs. Police found no drugs, but they did find Cristal's savings of \$8,040. Police seized the money, later transferring it to the U.S. Drug Enforcement Administration through a process known as "equitable sharing"—in which federal agencies take over forfeitures carried out by state officials, often

**Police found no drugs, but they did find Cristal's savings of \$8,040.**

Thanks to an IJ appeals court victory, **Cristal Starling**, pictured with the grandnephew she cares for, can continue fighting for the \$8,040 police seized from her home during a search for evidence against her now-ex-boyfriend.





**The appellate court's ruling is notable not only for its result but also for the understanding the court showed of how civil forfeiture works in the real world.**

circumventing state protections for property owners in the process.

Cristal herself was never implicated in any wrongdoing, and her former boyfriend was eventually acquitted of all charges. So Cristal naturally thought that she should be able to get her money back. With no legal help, Cristal sent a letter contesting the forfeiture. But the government argued she had missed a key deadline. When Cristal asked the federal district judge to forgive the oversight, he refused, holding that she had lost her money forever.

Unfortunately, Cristal's story illustrates an all-too-common plight: The legal fees necessary to contest a forfeiture can quickly exceed the value of the cash or other property at stake. Forced to navigate the courts on their own, forfeiture victims often miss deadlines or fall into other procedural traps that leave them with no recourse except to surrender potentially life-changing sums of money to the government.

Thankfully, IJ learned of Cristal's story and took over her case. We appealed the ruling to the 2nd Circuit, which reversed the lower court's decision. As a result, nearly three years after her money was

seized, Cristal will finally get to fight for her savings in court.

The appellate court's ruling is notable not only for its result but also for the understanding the court showed of how civil forfeiture works in the real world. As the court recognized, under existing law, "lax notice requirements allow the government to start the clock towards default judgment with perfunctory measures," while "a huge number of civil forfeiture cases are fought by claimants acting *pro se*" (representing themselves). Further, "All this is driven by incentive: The authorities can pocket what they can seize by forfeit."

The court's ruling reviving Cristal's case isn't just a victory for her—it paves the way for other victims of civil forfeiture to contest the seizure of their belongings without being ensnared in procedural pitfalls. And IJ will be there to litigate those challenges until the injustice of civil forfeiture is ended nationwide. ♦

Paul Sherman is an IJ senior attorney.



When police seized her savings, **Cristal** was making ends meet with a food cart while saving up to expand her business.





# IJ Lassos a Win to Tame the Wild West of Qualified Immunity

BY MARIE MILLER

It's a modern story about the Wild West. Mario Rosales rode his Mustang—the Ford kind—home. A black pickup truck in front of him was moving very slowly, so he passed it. There was nothing illegal, unsafe, or extraordinary about the maneuver. But, unbeknownst to Mario, the truck's driver was off-duty Sheriff's Deputy David Bradshaw, who had a notoriously explosive temper and a revolver at the ready.

The deputy's ego flared when Mario passed him. He tailgated Mario home and, without revealing that he was a law enforcement

officer, blocked Mario in his driveway, spewed profanities at him, and aimed his revolver at him. Mario tried to calm the deputy down, but it was no use. Bradshaw was so unhinged that when he aimed his revolver, he placed it right over the head of Bradshaw's own small child, who sat in the truck's front passenger seat.

The state of New Mexico convicted Bradshaw of aggravated assault with a deadly weapon and child endangerment. But when Mario sued Bradshaw and the deputy's county employer for violating his constitutional rights, he ran into a roadblock you'll read about



Mario Rosales can continue his suit against the officer who threatened him at gunpoint in a fit of road rage.



## Qualified immunity does not shield officers who obviously offend the Constitution.

throughout this issue of *Liberty & Law*: qualified immunity. According to the federal district judge who heard the case, Mario's rights had been violated, but Bradshaw was shielded from liability—because the law had not “clearly established” that Bradshaw's conduct was unreasonable.

Mario did not understand how the district court could have been right, yet he thought his case was over. Then, along came IJ. We took over his case and gave him another chance to win.

And win we did. Appealing to the 10th Circuit, IJ and Mario argued that the district court was sorely wrong. Qualified immunity does not shield officers who obviously offend the Constitution—for example, when they seize a person through felony assault, as Bradshaw did.

The 10th Circuit agreed. It reasoned that “it should be obvious to any reasonable officer that he or she cannot commit aggravated assault,” and “courts can protect officers' ability to make reasonable split-second law-enforcement decisions when dealing with suspected violent criminals without protecting an officer who was himself the only violent criminal on the scene.”

The court went further. Mario's claims against Bradshaw can go forward, and so too can his claims against the county employer. Those claims had been tossed by the district court on a technical defect. The 10th Circuit suggested that

*Rosales continued on page 22*



# Appeals Court Brings Zombie-Joke Lawsuit BACK FROM THE DEAD

BY BEN FIELD AND CAROLINE GRACE BROTHERS

It should be obvious that the First Amendment protects making a joke about the government. But a sheriff's office in central Louisiana and a federal district court didn't see it that way. Fortunately, with the help of IJ on appeal, the 5th Circuit reached just that commonsense conclusion and, in the process, pared back the pernicious doctrine of qualified immunity.

Waylon Bailey was bantering with friends on Facebook at the beginning of the COVID-19 pandemic. He made a post jokingly comparing the circumstances to a zombie apocalypse, replete with emoji and a hashtag reference to Brad Pitt's star turn in the movie *World War Z*. But the local sheriff's office was the butt of the joke and didn't appreciate it, promptly dispatching a SWAT team to arrest Waylon under a state terrorism statute. Waylon's name and face were all over the local news. When a prosecutor sensibly dropped the absurd charges, Waylon sued the arresting deputy and the sheriff's office for violating his right to free speech and his Fourth Amendment right against the baseless and warrantless arrest.

But the district court granted the officials qualified immunity. Worse still, it held that Waylon's speech wasn't protected by the First Amendment at all, basing this conclusion on World War I-era precedents that allowed the Wilson administration to jail its critics.

That's when IJ came into the picture, appealing Waylon's case to the 5th Circuit. And in late August, that court delivered a resounding victory for Waylon and for the Constitution.

First, the court held that Waylon's online speech was clearly protected by the First Amendment. It joined its

sister circuits in expressly repudiating the lower court's reasoning and in recognizing that the U.S. Supreme Court has replaced those cases with First Amendment standards that are far more protective of speech.

Just as important, the 5th Circuit held that the Fourth Amendment doesn't allow law enforcement officers to arrest first and ask questions later. Rather,

arrests must be based on real probable cause to believe somebody committed a crime, and officers charged with enforcing the law must be aware of what the Constitution requires and what the law actually is.

In the process, the court rejected the officials' claims of qualified immunity, which requires showing that a constitutional right was clearly established before the victim of a constitutional violation can seek redress. Here, the court held, it was crystal clear that an online joke was First Amendment-protected speech: It should have been obvious to the deputies that zombie jokes aren't terrorism.

All that may seem like common sense, but *Liberty & Law* readers know well that common sense often doesn't prevail in suits against government officials. Fortunately, Waylon is now on a clear path to holding the sheriff's office accountable. And his case will be an important precedent for other IJ cases challenging qualified immunity, retaliation for First Amendment-protected speech, and abridgments of the Fourth Amendment. ♦

Ben Field and Caroline Grace Brothers are IJ attorneys.

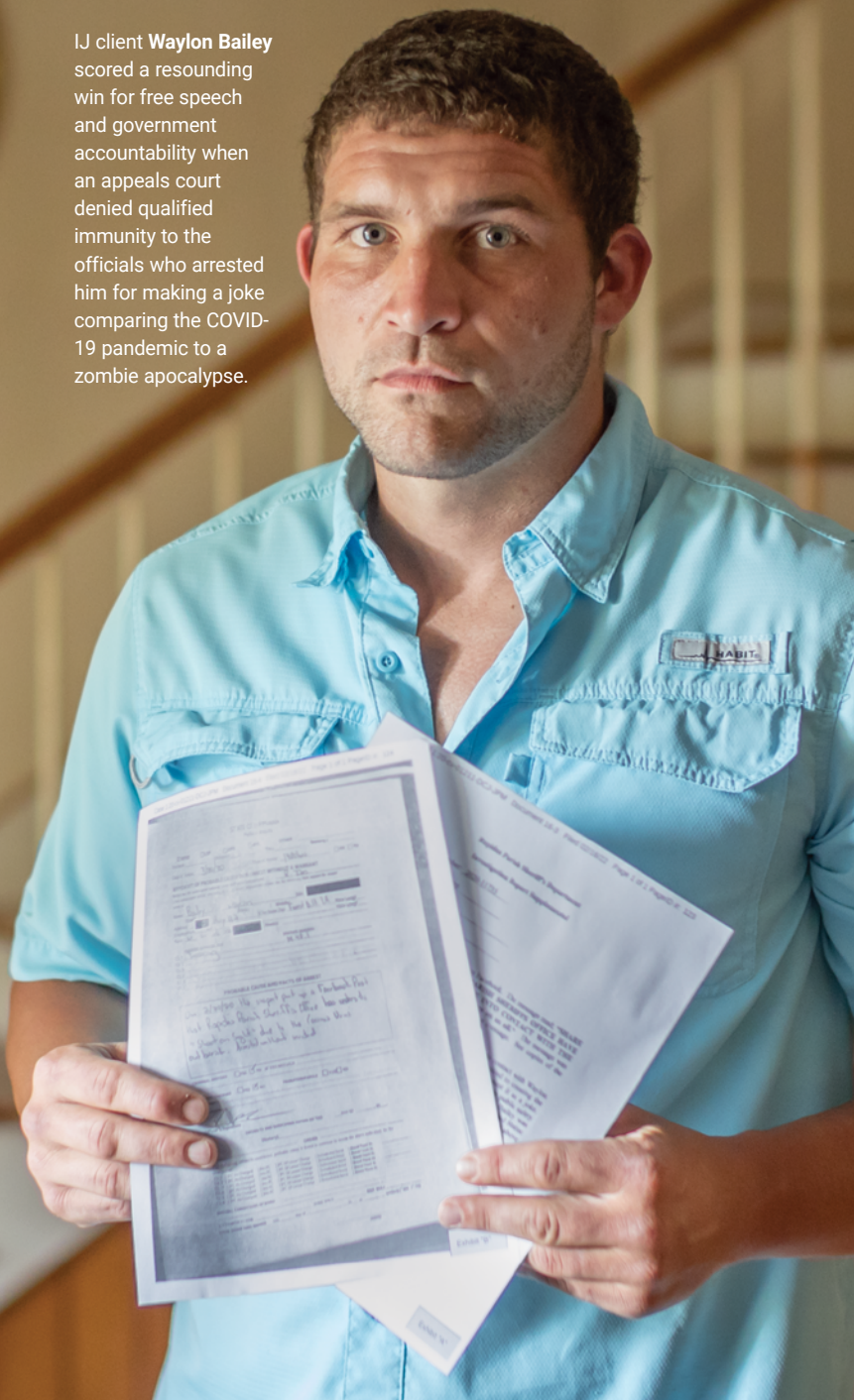




The district court held that Waylon's speech wasn't protected by the First Amendment at all, basing this conclusion on World War I-era precedents that allowed the Wilson administration to jail its critics.

That's when IJ came into the picture.

IJ client **Waylon Bailey** scored a resounding win for free speech and government accountability when an appeals court denied qualified immunity to the officials who arrested him for making a joke comparing the COVID-19 pandemic to a zombie apocalypse.



## IJ Wins Initial Fight for Texas Citizen Journalist

IJ won a first-round victory in a First Amendment retaliation lawsuit brought by Justin Pulliam, a citizen journalist who reports on the activities of law enforcement.

Not happy to be the object of Justin's reporting, Fort Bend County, Texas, officials repeatedly tried to shield themselves from Justin's scrutiny. In 2021, the sheriff directed officers to remove Justin from a press conference in a public park, claiming that he was "not media." A few months later, as he was filming a police encounter with a mentally ill man, Justin was arrested and prosecuted for "interfering with public duties"—even though he was far from the active scene and had permission from the property owner to record the welfare check on her property.

Like many *Liberty & Law* readers, Justin believes that local government can often have the greatest direct impact on our daily lives and that our freedom depends on its transparency. So he partnered with IJ to vindicate his constitutional right to report on government activity without fear of retaliation.

And this summer, a federal district court rejected Fort Bend County's attempt to dismiss Justin's First Amendment claims. That ruling makes it harder for the government to silence reporters it doesn't like.

Justin will now have the opportunity to hold Fort Bend County, its sheriff, and its officers accountable for violating his First Amendment rights to record officials and to be treated the same as established media. IJ has already started to take advantage of that opportunity, deposing the sheriff and several of his officers with an eye toward trial. ♦

# STOPPING AN END RUN AROUND GOVERNMENT ACCOUNTABILITY



Louisiana prisons routinely hold people past their legal release dates—including **Percy Taylor**, held for 525 days too long. Percy and IJ are now seeking to hold the head of the state's prisons accountable for this systemic failure.

**James LeBlanc, the head of Louisiana's prisons, has known since at least 2012 what he needed to do: adopt a sentence-calculation manual, institute training, and perform regular audits to ensure people in his custody are let go once their sentence are complete and they've paid their debts to society. But with a shield like qualified immunity, it is easier to be sued than to fix the problem.**

BY ANYA BIDWELL

Imagine a world where, for 10 straight seasons, NFL referees made substantial scoring mistakes. For a season or two, the blame for game-changing calls would be laid at the feet of individual referees. By season 10, few would doubt that it is not the referees who are the problem but rather the person who oversees them. After all, referees come and go, but a decade of error-ridden seasons can only mean something is wrong at the top.

In a world with qualified immunity, however, that's not how it works. Even after season 10, the supervising official, with a straight face, can claim that he is untouchable—that he shouldn't have to accept personal responsibility for his inability or unwillingness to train, supervise, and discipline his staff.

That's exactly the approach taken by James LeBlanc, the head of Louisiana's prisons. Since 2012, he has known that his prisons regularly overdetain people. A 2012 study that LeBlanc himself commissioned stated that, on average, 2,200 prisoners were being overdetained annually.

One of those prisoners is IJ client Percy Taylor. Percy was convicted of selling drugs and spent 20 years in prison—a year and a half past his release date. As they had with so many inmates before Percy, LeBlanc's employees miscalculated Percy's sentence. Percy discovered the error, but no one working in LeBlanc's prisons would listen. Even after a state judge called their failures “manifestly erroneous,” Percy's jailers held fast. He was finally released on February 18, 2020—525 days too late.

Percy is now suing LeBlanc for the deliberate indifference that caused his overdetention. After all, LeBlanc has known since at least 2012 what he needed to do: adopt a sentence-calculation manual, institute training, and perform regular audits to ensure people in his custody are let go once their sentences are complete and they've paid their debts to society. But with a shield like qualified immunity, it is easier to be sued than to fix the problem.

Or at least that's what LeBlanc thought. Now that IJ is representing Percy, LeBlanc has a real fight on his hands. Following our involvement, the 5th Circuit panel withdrew its earlier opinion granting LeBlanc qualified immunity and ordered oral argument by IJ. Stay tuned. ♦

Anya Bidwell is an IJ attorney and co-leader of IJ's Project on Immunity and Accountability.







Linda Martin and her husband, Reggie, were saving to buy a house when the FBI seized their money in a raid on the business where they stored it. Despite having no evidence of wrongdoing, the FBI kept their money for two years—until IJ got involved.

## FBI RETURNS LIFE SAVINGS in Bid to Get Out of Lawsuit

BY BOB BELDEN

More than three years ago, the FBI aimed a dragnet raid at a Los Angeles private vault company. In the process, the FBI took more than \$100 million from customer safe deposit boxes—including \$40,200 from Linda Martin.

The FBI had no idea who Linda was when it seized the cash. It didn't know that Linda and her husband, Reggie, were saving to buy a home. And when the FBI decided to forfeit and keep her life savings, the agency never told Linda what it

thought she had done wrong. So, earlier this year, IJ launched our second class-action lawsuit against the FBI—this time for keeping Linda and other property owners in the dark during so-called administrative forfeiture proceedings.

Barely a month after Linda and IJ filed suit, the FBI decided to return the money (with a modest amount of interest).

This is a tremendous win and long-awaited relief for Linda. But the FBI didn't do it out of the goodness of its heart; its motives were much less wholesome. When it decided to return Linda's savings, the FBI asked the court to dismiss her

claims, arguing there's no longer a dispute for the court to resolve.

As *Liberty & Law* readers likely suspect, the FBI is wrong about that. IJ filed Linda's case as a class action so that we could obtain justice not only for Linda but also for potentially thousands more like her.

When the government takes and tries to keep property, we argue, it must tell people the factual and legal reasons why. The forfeiture notice the FBI sent Linda didn't provide that basic information. The same is true of the boilerplate

notices the FBI has sent to hundreds or even thousands of others.

Even though Linda has her cash back, potentially thousands of other innocent property owners have been victimized by the FBI's contentless forfeiture notices. Either the FBI must give those people the basic facts explaining why the government took their property and wants to keep it forever—or it must return *their* property, too.

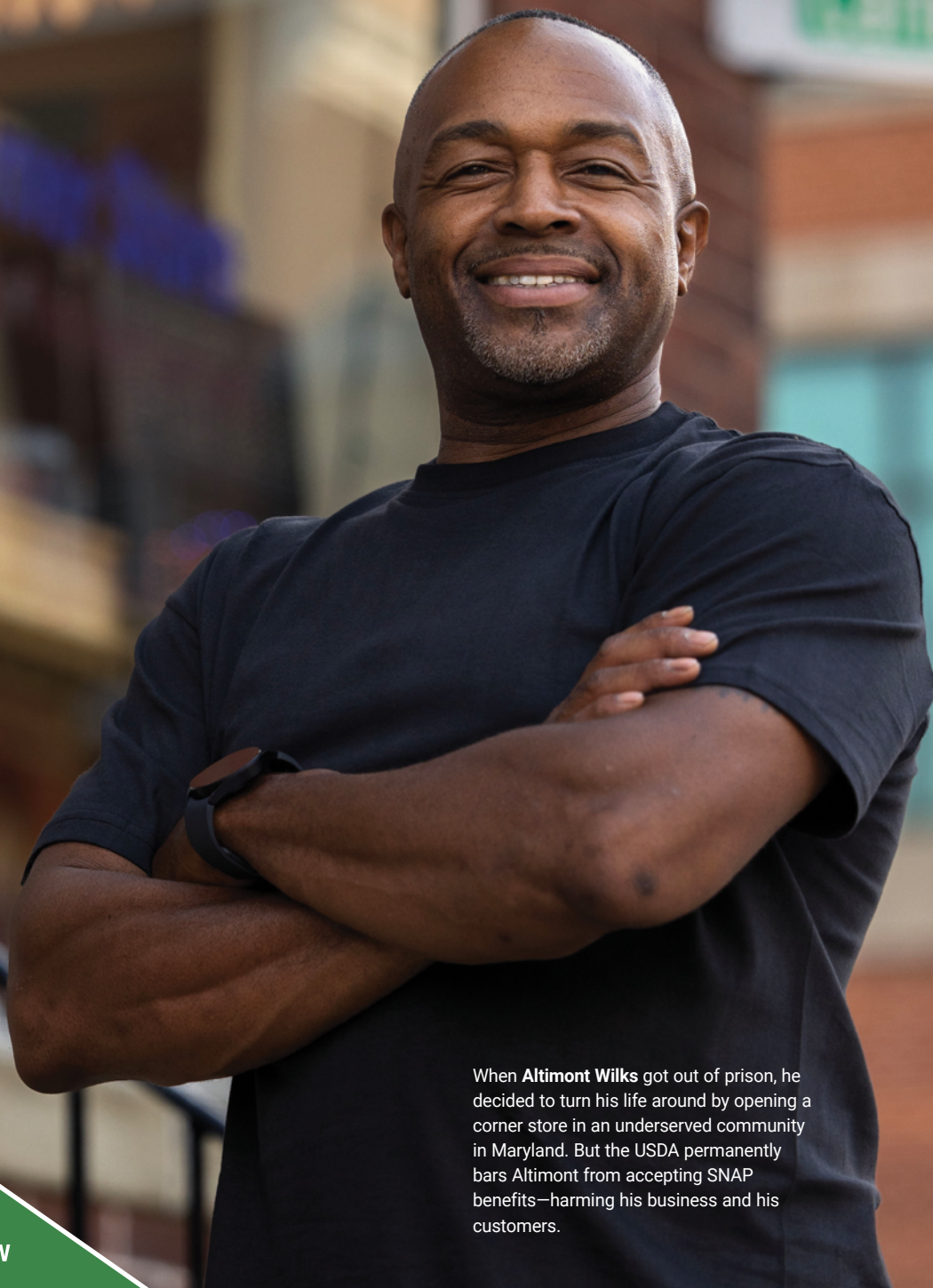
Linda and IJ will keep fighting until it does. ♦

**Potentially thousands of innocent property owners have been victimized by the FBI's contentless forfeiture notices.**

Bob Belden is an IJ attorney.



# SNAPPING BACK AT THE USDA



When **Altimont Wilks** got out of prison, he decided to turn his life around by opening a corner store in an underserved community in Maryland. But the USDA permanently bars Altimont from accepting SNAP benefits—harming his business and his customers.



BY ANDREW WARD

In 2018, IJ launched our first “fresh start” case: a challenge to a law that unfairly bars people from working because of their criminal histories. We won that case in 2020. But IJ never goes for one-hit wonders. We build campaigns around our cases and keep up the drumbeat for as long as it takes. Now, less than five years later, we’ve brought our fifth case about second chances.

Altimont Wilks will be the first to tell you: He used to be a drug dealer. In 2004, he was caught with a gun and drugs. He went to prison. But he came out a changed man. Today, he’s a pillar of his Hagerstown, Maryland, community—not just an exemplar, according to state leaders, but even a member of the Rotary Club alongside the judge who sentenced him.

He’s also an entrepreneur. In 2019, Altimont opened a corner store, hoping to offer groceries to a community with few other options. He named the store Carmen’s after his mother. Two years later, he opened a second location in nearby Frederick.

But Carmen’s is struggling. Altimont wants to participate in the Supplemental Nutrition Assistance Program (SNAP), which would allow low-income customers to pay with what

**The government has decided that Altimont will always be the man he was 19 years ago.**

used to be called food stamps. But Carmen’s can’t accept SNAP benefits. The U.S. Department of Agriculture (USDA), which administers the program, imposes a “business

integrity” rule that bars a business if it’s owned by anyone who was ever convicted of any crime related to alcohol, tobacco, drugs, firearms, or gambling. In other words, the government has decided that Altimont will always be the man he was 19 years ago.

In Hagerstown, where one in five households depends on SNAP, that’s bad for Carmen’s would-be customers—the very

USDA SNAP continued on page 22

Being allowed to accept SNAP benefits would help Altimont serve his community.

Watch the case video!



## IJ'S 400TH CASE!

Altimont's case marks another major milestone for IJ: It is the 400th lawsuit we have filed in court!

In August, Altimont joined the more than 1,200 courageous clients who have fought alongside IJ since we opened our doors in 1991. Over the past three decades, we've helped return more than \$21 million in wrongfully forfeited property, saved more than 20,000 homes and businesses from the government's wrecking ball, and rolled back burdensome regulations in 44 mostly working-class occupations.

And we're growing faster than ever in terms of cases and impact. Fully a quarter of those 400 cases were launched in just the past three years.

IJ's Project on Immunity and Accountability contributed substantially to that growth, with 27 cases (including four featured in this issue) filed since its launch in early 2020. More recently, we created the Project on the Fourth Amendment to uphold the right to be secure in our persons and property against prying government eyes, and our caseload has grown substantially with that project as well.

As IJ has taken on more cases each year, those cases have also grown in complexity, with more than a dozen class actions on our active docket poised to help exponentially more people than ever before.

Despite this unprecedented growth, IJ still wins more than 70% of our cases even in the face of entrenched government behemoths.

Thanks to our loyal supporters, we're litigating our 400th—and counting!—case with the same care and dedication that we litigated our first, to ensure continued success in defending the constitutional rights of all Americans. ♦

# VICTORY IN ACTION:

## Shelter Welcomes Those in Need

BY DIANA SIMPSON

Three years after it asked the town of North Wilkesboro, North Carolina, for permission to put a piece of property to productive use, the Catherine H. Barber Memorial Shelter finally opened its doors. All it took was tenacity, determination, and a federal lawsuit to get there.

The Barber Shelter first opened its doors over 30 years ago, providing overnight refuge to people who are temporarily homeless and have nowhere else to go. It is the only homeless shelter in Wilkes County and sleeps, on average, fewer than a dozen people per night.

In 2020, the Barber Shelter was looking for a new space when a local dentist generously offered his former office building as a location.

The space was perfect: It was in an ideal part of town—near the services the shelter’s clients use, far from residential areas—and met each of the town’s zoning requirements. All it needed was a permit.

But the town was not interested in allowing the Barber Shelter to care for the area’s neediest.

Instead, it invented bogus reasons to deny the shelter its permit, such as concerns about the shelter’s clients walking on the sidewalk near a busy road. But that is nonsensical; the town

requires homeless shelters to have sidewalks and be situated near major roads.

The government’s reasoning meant that there was nowhere in town for the shelter to go. But the Constitution prohibits governments

**The Catherine H. Barber Memorial Shelter finally opened its doors. All it took was tenacity, determination, and a federal lawsuit to get there.**



IJ attorney **Diana Simpson** (fourth from right) celebrated the Barber Shelter’s opening in its new building, along with the daughter of the shelter’s namesake, **Mary Smith** (center), board chairwoman **Elizabeth Huffman** (fifth from left), and many enthusiastic supporters.



**Victory in hand, the Barber Shelter got to work renovating the property. Today, you'd never guess the building's previous life as a dental office.**

from ruling by paradox, and so the Barber Shelter teamed up with IJ to fight back. We sued the town, and, a few days before Christmas 2021, a federal court sided with IJ and the shelter, concluding that “deference cannot be an excuse for the Court to abdicate its duty to protect the constitutional rights of all people.”

Victory in hand, the Barber Shelter got to work renovating the property. Today, you'd never guess the building's previous life as a dental office. It now provides short-term housing for up to 10 men on the first floor and six women and a family on the second floor. There are kitchens, common areas, laundry facilities, and other necessities to provide comfort during a difficult time.


Everything came together on August 5, 2023, and IJ was there, too—we couldn't miss this celebration! Flanked by many volunteers and supporters, Mary Smith—daughter of the shelter's namesake—cut the red ribbon to open the new forever home of the Barber Shelter. And the ceremony memorialized an important principle: Government shouldn't stand in the way of private citizens using their own property and initiative to help the least fortunate in their communities. ♦

Diana Simpson is an IJ attorney.



The shelter now provides amenities such as (top to bottom) common areas, a 10-bed room for men, kitchens, and a room for families. Not pictured: a six-bed room for women.





A Los Angeles SWAT team destroyed **Carlos Pena's** print shop while trying to capture a fugitive with no relation to Carlos. After the city refused to pay, Carlos teamed up with IJ to vindicate his right to just compensation.

## SWAT Raid Causes Big Problem for Small Business

BY JEFFREY REDFERN

Carlos Pena is facing a nightmare that is sadly becoming more common across the United States. A Los Angeles SWAT team destroyed his business while pursuing a fugitive who had no connection to Carlos whatsoever. When he asked the city to compensate him for the damage so that he could get his small, family-owned business running again, the city told him, "Tough luck."

This summer, IJ filed a federal case on Carlos' behalf. We intend to teach Los Angeles the same lesson that we taught a small Texas town last year: When the government intentionally destroys innocent people's property, even for legitimate reasons, it must compensate them.

Carlos' ordeal began last August while he was working in his store, NoHo Printing and Graphics, a print shop that he has owned and operated

for 30 years. Carlos heard a commotion outside. When he opened the door, he was shocked to see running toward him a man pursued by armed law enforcement officers. The fugitive struck Carlos on the shoulder, threw him out of the store, and

**When the government intentionally destroys innocent people's property, even for legitimate reasons, it must compensate them.**







**Carlos** now works out of his garage on a secondhand printer he got at a discount. He fears he won't be able to rebuild his shop and pass it on to his son.

then barricaded himself inside. After a 13-hour standoff, a Los Angeles SWAT team assaulted the store, firing over 30 rounds of tear gas grenades. The grenades tore through walls, doors, and the ceiling. The gas permeated everything in the store, including delicate commercial printing equipment. Worse, the fugitive had already snuck out of the store by this time.

Carlos estimates that it will cost at least \$60,000 to repair and replace his equipment. His insurance policy, as is typical, does not cover damage caused by the government, and the city has refused to compensate him, saying that its officers acted reasonably. Carlos has been reduced to operating his business out of his garage with a single, secondhand printer that a generous individual sold him at a discount. But he has lost at least 80% of his business. He had hoped to pass the shop on to his son one day, but he now fears that he may never be able to rebuild it.

In recent years, IJ has uncovered more and more cases like Carlos'.

Although many cities voluntarily pay for property damage caused by their police, others refuse. In August 2022, IJ won a \$60,000 jury verdict on behalf of Vicki Baker, a woman whose home was destroyed by a McKinney, Texas, SWAT team that was pursuing a fugitive. The court in that case explained that the Takings Clause of the Fifth Amendment "was designed" to prevent government "from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole."

In other words, law enforcement is a public good, and the public should pay for it. If the government takes your house to build a road, it has to pay you. As IJ will remind Los Angeles, the same rule applies if the government destroys your house to catch a criminal. ♦

Jeffrey Redfern is  
an IJ attorney.





Despite losing in its bid to force Azael "Oz" Sepulveda to add 28 parking spots on the property he purchased for a small auto repair shop (an unnecessary and physically impossible burden), Pasadena, Texas, still refuses to let Oz open his business.

# IJ Never Stops Working for Our Clients

BY JUSTIN PEARSON

At IJ, we never stop. When we take a case, we commit to our clients, and that commitment can remain even after the case is over.

City officials in Pasadena, Texas, are learning this the hard way. When local auto mechanic Azael "Oz" Sepulveda purchased

**Hopefully, Pasadena will listen to its constituents for a change. But if not, we will file another lawsuit challenging the city's latest round of obstructionist behavior.**

property for his shop two years ago, any reasonable person would have expected city officials to applaud his entrepreneurial spirit. Instead, they responded

by saying that he could not open at his new location—which had previously been someone else's auto repair shop for decades—unless he added 28 parking spaces. That many spots didn't make any sense and wouldn't physically fit on the property, but the city refused to budge, relying on its abusive code.

IJ took Oz's case, and, in March 2022, a court ruled that the parking requirements under Pasadena's code were unconstitutional. After

the court's ruling, the city threw in the towel and settled the case.

But the city was not done with its vendetta against this small-business owner. There are numerous hoops that any business owner must jump through to open, and the city has given Oz the runaround for each one. To date, the city still refuses to allow him to open his shop.

City officials apparently thought that IJ would stop helping Oz once we won in court. But they were wrong.

Instead, IJ's activism team sprang into action. We organized a fantastic event in support of Oz's quest, which drew a huge crowd: By the end, 189 locals agreed to send letters demanding that the City Council let Oz open.

But Pasadena continued to ignore its constituents. So IJ filed another lawsuit in September challenging the city's latest round of obstructionist behavior. We will not stop until Oz's new shop is finally open for business. ♦

Justin Pearson is a senior attorney and manager of IJ's Florida office.





# Home Business Win Isn't Child's Play

BY JARED MCCLAIN

Over the summer, IJ achieved a long-awaited victory after the city of Lakeway, Texas, issued Bianca King a permit to run a day care out of her home.

Bianca is a single mother of two who began watching neighbors' children after she was laid off during the pandemic. Although her state-licensed day care filled a need in the community and her clients loved her, not everyone was happy about it. Lakeway's former mayor, upset that he could hear children laughing while he golfed near Bianca's house, used his influence to shut down her business.

When IJ sued on Bianca's behalf back in February 2022, it was virtually impossible to legally operate a home business in Lakeway. The city required that home businesses satisfy 19 strict criteria, including a complete prohibition on selling goods or providing services and a vague requirement that any business be totally "undetectable." Laws like that give officials broad discretion to deny any business they don't like—such as one opposed by a former mayor.

Bianca's lawsuit, however, pressured Lakeway to let IJ help amend its home business ordinance. We told the city that if it wanted our lawsuit to go away, it had to fundamentally change its law. In August 2022, Lakeway eliminated the most restrictive aspects of the regulation. Following that reform, entrepreneurs throughout the city are now free to make an honest living by offering services and selling handmade goods out of their homes, so long as they aren't hurting anyone.

But not Bianca. For 10 more months, the Lakeway City Council continued to make her jump through hoops—and IJ continued to fight by her side. That saga ended this summer, when Bianca finally received her permit.

Now Bianca can care for up to five children at a time. And her new permit lets her hire a part-time worker 20 days per year when she needs some time off. Most important, Bianca is a beacon of hope for entrepreneurs throughout the country who aspire to provide for their families by running a business out of their homes. ♦

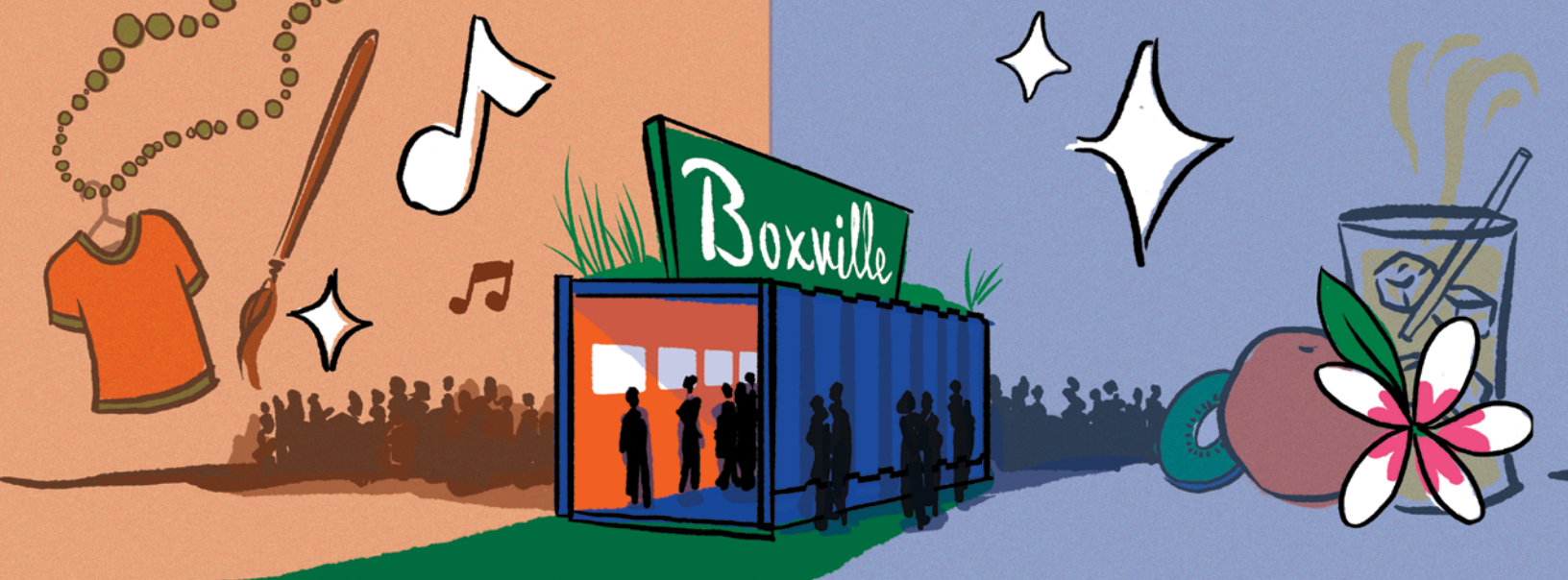
Jared McClain is an IJ attorney.



Single mother **Bianca King** is free to operate her home day care—and other residents of Lakeway, Texas, are free to pursue their own home businesses—after an IJ lawsuit pressured the city to amend its home business ordinance.







# CHICAGO ENTREPRENEURS **THINK OUTSIDE THE BOX** TO GROW SOUTH SIDE BUSINESSES

BY CATHERINE GRYZAN

At 51st Street next to the elevated Green Line in Chicago's historic Bronzeville neighborhood sits Boxville, a bustling shipping container marketplace that has transformed a once-vacant lot. But this innovative small-business center clashes with Chicago's antiquated and oppressive licensing regulations.

Boxville grew out of a desire to address a community need for places to eat, shop, and gather. The effort started in 2014 with the Bronzeville Bike Box. Operating from a modified shipping container, it grew to become the neighborhood's go-to bike repair shop. Now

Boxville boasts 17 modified shipping containers with the capacity to host up to 20 startup enterprises operating year-round.

Founder Bernard Loyd identified the need for an incubator like Boxville from conversations with local businesses and aspiring entrepreneurs, many of whom did not have the experience or resources to succeed in a traditional storefront with high overhead. For a modest monthly membership fee, Boxville provides budding businesses with a place to start and offers coaching on business plans, marketing, pricing, and more. The goal is for businesses to outgrow the box format and transition to larger retail and

Boxville offers customers unique places to eat, shop, and gather in the Windy City's historic Bronzeville neighborhood.







Boxville founder **Bernard Loyd** (center) helps aspiring entrepreneurs succeed with affordable space, business coaching, and more so that they can eventually graduate to traditional storefronts.

restaurant spaces once they are better prepared to launch. And it's a successful model: As businesses graduate to continue their journey in traditional storefronts, new entrepreneurs can come to Boxville for the support and mentorship they need to launch their own businesses.

While Boxville has gained traction in Chicago with unique foods, products, and services, it struggles to find its place in the city's outdated business licensing scheme. The rules were constructed for traditional brick-and-mortar spaces, not Boxville's innovative and affordable model that provides a much-needed springboard for entrepreneurs.

So Bernard partnered with the IJ Clinic on Entrepreneurship to navigate—and hopefully change—the city's outdated regulations. Together, we are engaging the city in the hope of crafting a solution that squarely fits how Boxville operates. We also work with Boxville so

**Now Boxville boasts 17 modified shipping containers with the capacity to host up to 20 startup enterprises operating year-round.**

that it can guide individual businesses to secure licensing for the innovative goods and services they provide.

By lifting up Bernard and his novel Boxville marketplace, the IJ Clinic supports small-business owners as they work to provide job opportunities to residents, quality goods and services to patrons, and unique events and attractions to visitors—all while pursuing their economic dreams. ♦

Catherine Gryczan is assistant director of IJ's Clinic on Entrepreneurship.



Boxville is an innovative marketplace built out of 17 modified shipping containers. It is working with IJ's Clinic on Entrepreneurship to overcome Chicago's antiquated licensing regulations.







**Altimont** and IJ are challenging the USDA's lifetime ban against people with decades-old convictions for offenses unrelated to SNAP.

**Mario** (center) worked with IJ attorneys **Marie Miller** and **Patrick Jaicomo** to restore some common sense to the law of qualified immunity in the six states of the 10th Circuit.



**USDA SNAP** continued from page 13

people SNAP is meant to help. And it's bad for Altimont. Regardless of the wisdom of SNAP as a federal policy, Altimont should still be allowed to compete on a level playing field with other businesses. Instead, he's excluded from much of the market. It's tough to compete when your competitors can access significantly more customers.

But Altimont isn't one to take an injustice like that lying down. Nineteen years ago, he was taken into Baltimore's federal courthouse as a prisoner. This past August, he entered that same building as a plaintiff. With IJ's help, he's suing the USDA to end its lifetime ban.

The law is on his side. For one, the USDA's policy is plain made up. Two federal courts have already decided that the actual written rule doesn't allow this sort of disqualification. More important, the policy is what administrative lawyers call "arbitrary and capricious" and what normal people just call "nuts." It makes no sense to ban people for decades-old crimes that have nothing to do with SNAP, especially when stores that actually break the program's rules enjoy more lenient punishments.

These senseless lifetime bans are bad for communities, and they're bad for business. IJ is happy to join the fight a fifth time—and we look forward to number six. ♦

**Andrew Ward** is an IJ attorney.



**Rosales** continued from page 7

Mario should have the opportunity to correct the technical flaw in the lower court and reassert his claims against the county.

Thanks to Mario's grit and commitment, his case has restored some common sense to the law of qualified immunity in six states: Colorado, Kansas, New Mexico, Oklahoma, Utah, and Wyoming. His case has also opened the door for other circuits to issue similar decisions and hold government actors accountable for their wrongs. ♦

**Marie Miller** is an IJ attorney.





# 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  
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## **The Washington Post**

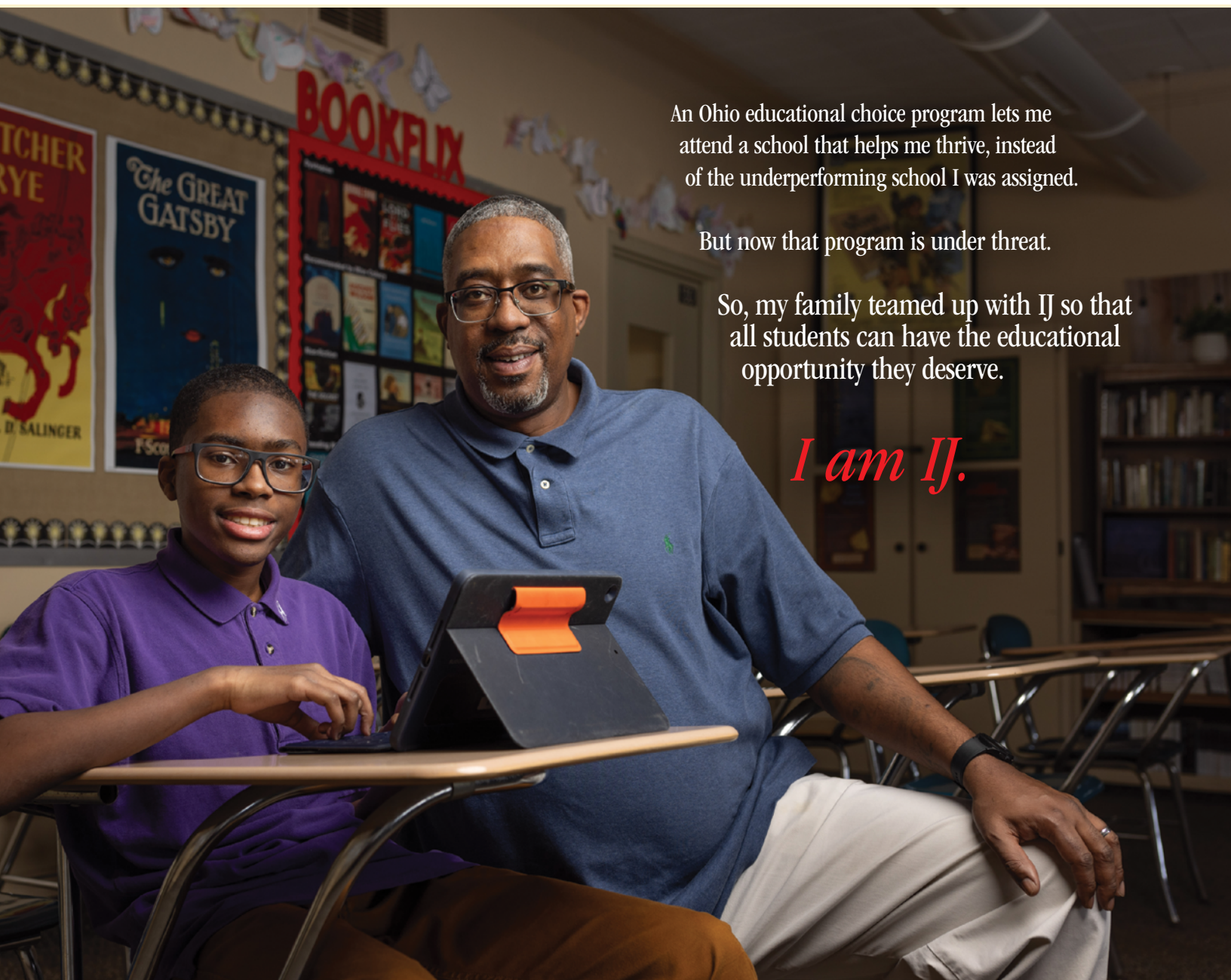
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August 30, 2023



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An Ohio educational choice program lets me  
attend a school that helps me thrive, instead  
of the underperforming school I was assigned.

But now that program is under threat.

So, my family teamed up with IJ so that  
all students can have the educational  
opportunity they deserve.

*I am IJ.*

Ellis family  
Akron, Ohio

[www.IJ.org](http://www.IJ.org)

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