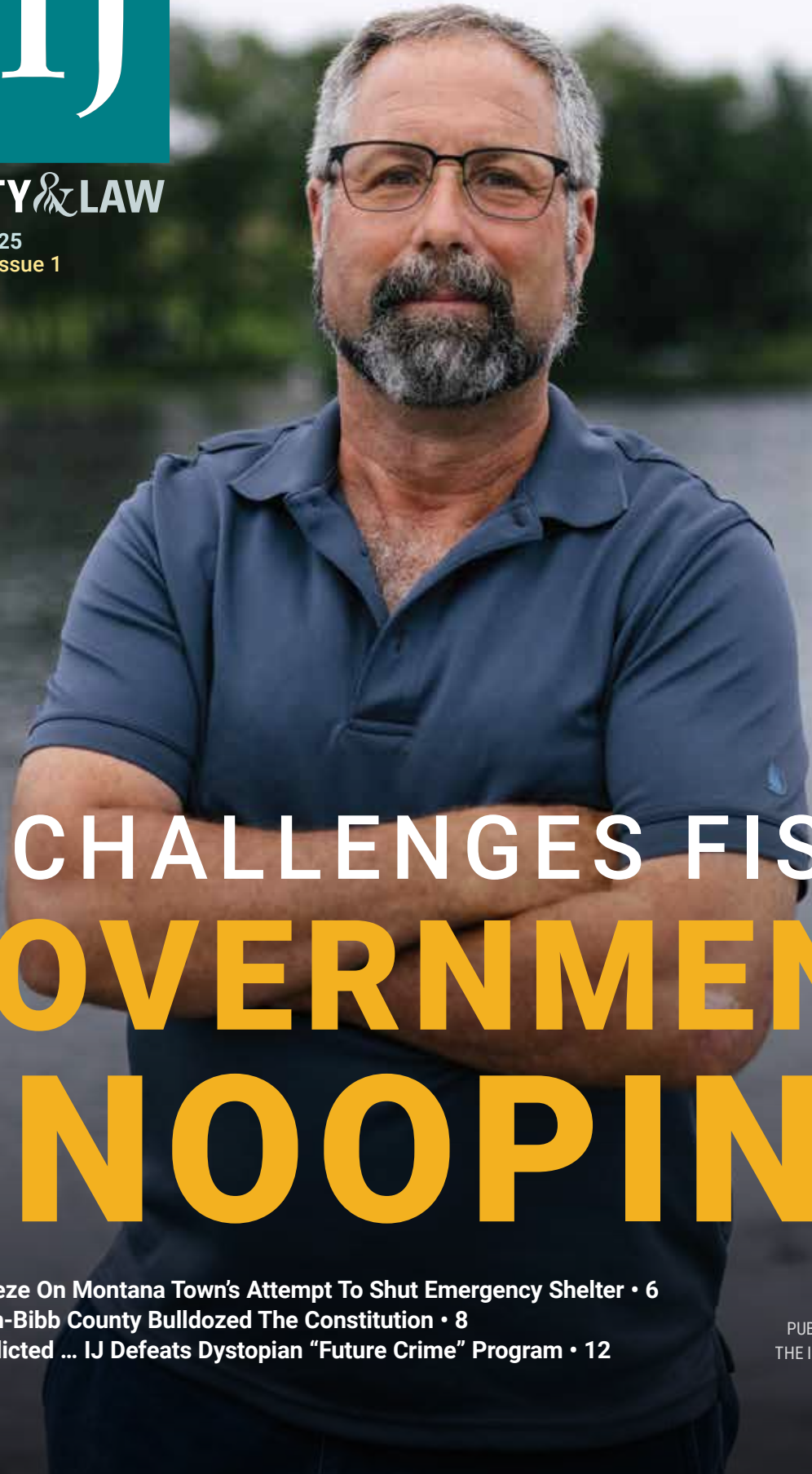




LIBERTY & LAW

February 2025
Volume 34 Issue 1



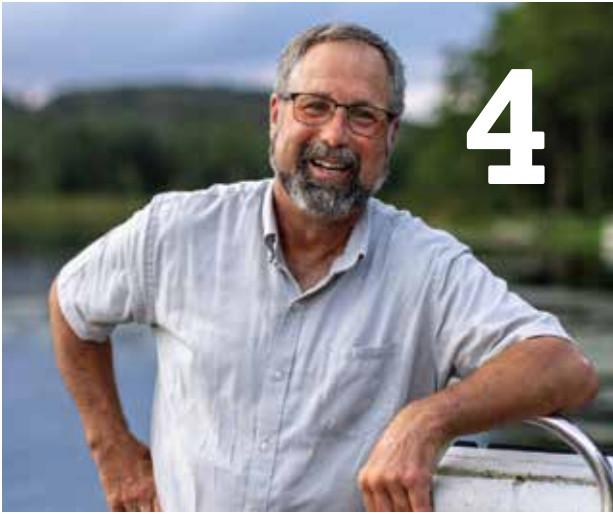
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PUBLISHED BIMONTHLY BY
THE INSTITUTE FOR JUSTICE

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LIBERTY & LAW

February 2025 • Volume 34 Issue 1

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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IJ Challenges Fishy GOVERNMENT SNOOPING

BY DYLAN MOORE

When IJ client Tim Thomas and his wife, Stephanie, bought a small cabin that sits on Butler Lake in Susquehanna, Pennsylvania, they hoped it would give them a peaceful place to escape the worries of everyday life. For nearly a decade, it did. And when Stephanie was diagnosed with cancer in 2022, the cabin became essential; its quiet location and serene views made it a perfect place of respite while she underwent treatment.



Watch the case video!
iam.ij.org/PA-fish-cops

IJ client **Tim Thomas** bought a small, lakeside cabin in Pennsylvania to be a retreat for him and his wife. Now, the cabin is at the center of a new Fourth Amendment lawsuit.

But in 2023, the Thomases' sense of security in their home was shattered. That's because, on two separate occasions, Pennsylvania Waterways Conservation Officer Ty Moon entered their property without a warrant to search for evidence of fishing and boating violations that never happened.

The first time WCO Moon showed up uninvited, Stephanie was home alone. Moon pounded on the front door, but Stephanie didn't answer—she didn't know who was there, and her cancer treatment made it hard for her to get around. Undeterred, Moon walked to the end of the Thomases' driveway, strolled past several "No Trespassing" signs, and slipped through a small gap between the side of the cabin and the Thomases' landscaping to bang on their back door, shouting: "I know you're in there!"

After once again receiving no response, Moon wandered through the Thomases' backyard and took pictures of their cabin, their car, and their pontoon boat, which was moored to their private dock. Days later, Tim received a strange citation alleging that he had evaded an officer while fishing without a license. This was untrue, and when Tim lodged a complaint, the charge was dropped.

But Moon was not through. A few months later, he was stationed at a private hunting club across the lake, secretly watching Tim fish through a set of binoculars. Tim returned his boat to his private dock, and Moon arrived shortly thereafter. To get there, he walked past an open, eye-level bathroom window as Stephanie took a bath. Over Tim's protests, Moon inspected the property and seized eight fishing rods. Again, Tim was charged with a crime (this time, fishing with too many rods), and again he was vindicated (this time, in court).

Moon never had a warrant or the Thomases' permission to enter their property. Instead, he relied on a Pennsylvania law that gives WCOs blanket authority

to "enter upon any land or water"—including the land immediately surrounding homes—to search for evidence of fishing and boating violations. This all-encompassing power to search private property is unique to WCOs, and it's even more expansive than what's permitted under the Open Fields Doctrine (which IJ is fighting to limit in state courts, including in Pennsylvania). Other Pennsylvania law enforcement officers have to get a warrant before they sniff around people's houses to look for evidence of crimes.

Tim knows that, under the Fourth Amendment, "fish cops" have to get a warrant, too. So he teamed up with IJ to file a federal lawsuit challenging the Pennsylvania law that gives WCOs permission to trespass on private property. Sadly, Stephanie passed shortly before the case launched. But Tim presses on in her honor to ensure that all Pennsylvanians' homes have the same Fourth Amendment protection—regardless of whether they happen to sit near a body of water. ♦



Tim's wife **Stephanie** sadly passed from cancer, but Tim is keeping up the fight in her honor.

Dylan Moore is an IJ attorney.



Pennsylvania law lets "fish cops" trespass on Tim's home and all private land without a warrant.

Thanks to a preliminary injunction IJ secured, an emergency shelter can stay open during the freezing Montana winter.



IJ PUTS FREEZE ON MONTANA TOWN'S ATTEMPT TO SHUT EMERGENCY SHELTER

BY MATT LILES AND JEFF ROWES

In recent years, IJ has challenged arbitrary zoning laws across the country. In fact, just last year we launched our Zoning Justice Project to restore traditional property rights—especially so people can use their land for alternative, affordable forms of housing. This fall, we came to the defense of a homeless shelter in Kalispell, Montana, that had broken no laws and operated responsibly but had its permit revoked in a political circus.

Montana winters pose life-threatening cold. That's why Tonya Horn and Luke Heffernan founded the Flathead Warming Center in 2019: to provide emergency winter shelter. It offers 50 beds for overnight stays between October and April, when the average temperature at night sits below freezing. The Warming Center was a lifesaver for people like Jerome Amundson, who lost his wife and home after a trusted family member stole their life savings. He fell into a profound depression, lost his job, and wound up, to his astonishment

and shame, sleeping in the woods. Unable to survive, he went to the Warming Center, where he found "acceptance," "love," and eventually a job.

The Warming Center's volunteers provided life-saving shelter for hundreds of people like Jerome over four successive winters. But then the political winds changed. After the pandemic,

Montana experienced the highest increase in homelessness in the country. Housing costs skyrocketed in mountain towns like Kalispell, the gateway to Glacier National Park. Kalispell decided it needed to do something about this problem—so, bizarrely, it decided the

Warming Center had to go, even though it had never been cited for violating any law and was integral to keeping people off the street.

In September, the Kalispell City Council voted to revoke the Warming Center's permit and shut it down right before the start of winter. The city blamed the Warming Center for all homelessness off its own property. And councilmembers admitted they were stripping the shelter's property rights due to public

In September, the Kalispell City Council voted to revoke the Warming Center's permit and shut it down right before the start of winter.



The Flathead Warming Center, run by executive director **Tonya Horn** (left), provides warmth, safety, and community for people in need, such as client **Christine Nelson** and her dog, Killer (top right). **Jerome Amundson** (bottom right), who previously received help from the shelter, now works there helping others.



complaints—not about the Warming Center, but about homeless people in general.

But then IJ got involved. The Warming Center needed an emergency order to reopen right as temperatures began dropping below freezing. To accomplish this, IJ’s team made a herculean effort, preparing more than 100 pages of briefing and 1,000 pages of evidence in only two weeks.

After a daylong hearing in Montana, the Warming Center got what it needed. A federal court granted a preliminary injunction reopening the Warming Center. The court agreed with IJ that property rights are not a political contest. If cities want to take them away, they cannot do it for whatever reason and using whatever process they want. This was the latest victory in IJ’s Zoning Justice Project and the second time IJ has successfully defended a homeless shelter from zoning abuse.

Now that the Warming Center is back open, its volunteers will continue to save lives from the deadly cold. And IJ will continue to seek a final judgment in the case vindicating property rights under the Constitution. ♦

The Warming Center needed an emergency order to reopen right as temperatures began dropping below freezing. To accomplish this, IJ's team made a herculean effort, preparing more than 100 pages of briefing and 1,000 pages of evidence in only two weeks.

Matt Liles is an IJ attorney and Jeff Rowes is an IJ senior attorney.



DEMOLITION DERBY:

HOW MACON-BIBB COUNTY BULLDOZED

THE CONSTITUTION



Eric Arnold stands on the site of a house he purchased to fix up for his family. Macon-Bibb County, Georgia, bulldozed his home without warning.

BY CHRISTIE HEBERT

Eric Arnold, an experienced carpenter and home renovator, was lovingly restoring a fixer-upper in Macon-Bibb County, Georgia, for his children and grandchildren. Little did he know the county was about to give his house an extreme makeover, courtesy of its overzealous code enforcement department and “blight fight” campaign.

After devoting thousands of dollars to cleaning up the property, Eric discovered his house had been secretly marked for demolition when a demolition company tried to place a dumpster on his front lawn. He told the driver that there must have been some mistake; he had never been contacted by the county or received any notice that there was a problem with his property. Even though the home was actively under construction, the repairs at this point were mostly internal. The once-overgrown yard was now cleared, materials and supplies were stored inside, and the property was in better shape than many others in the neighborhood. Even the driver who delivered the dumpster was confused, telling Eric the house was “too clean” for demolition.

Eric then raced from county office to county office trying to save his property. Although county officials confirmed that a demolition permit had been issued for Eric’s house, no one could explain why—or provide any information about how to stop the process. Instead, he was met with hostility and conflicting instructions, including an inaccurate claim that he needed to become a licensed contractor to repair his own home. None of his repairs required a license or a permit, but he nonetheless applied for both and reviewed his plans with code enforcement

officers—who told him he’d better hurry up and refused to take the house off the demolition list.

Instead, county officials secretly sped up the demolition process in retaliation for Eric’s pleas. Early one morning when Eric was away, his neighbor called him in a panic: Nearly a dozen code enforcement officers with guns and demolition equipment were assembled on Eric’s property. By the time Eric arrived, his house was reduced to rubble.

Ordinarily, if government officials want to force someone to tear down a building, they have to go to court. There, the property owner can present evidence in their defense, and a judge has the final say. If the court finds that there’s a nuisance, it can order the property owner to abate it, whether by improvement or demolition, and supervise that process. But Macon-Bibb’s code enforcement regime bypasses this system entirely. Instead of proving that a property is a nuisance in court, the mayor has unilateral power to designate a home for destruction and stick the homeowner with the bill.

Eric is not alone. Macon-Bibb County has leveled more than 800 homes in just over three years, celebrating grim demolition milestones along the way—even gifting the mayor a brick from the

700th house torn down without due process. So Eric and IJ sued Macon-Bibb County not only for compensation for his own house but to prohibit the county from secretly knocking down any more houses without first giving property owners their day in court.

This case isn’t just about one man’s house; it’s about laying a foundation for all Americans’ rights to due process and to contact government officials free from retaliation. Together, we’ll show Macon-Bibb County that respecting the Constitution is the only blueprint for success. ♦

Christie Hebert is an IJ attorney.



Watch the case video!
iam.ij.org/GA-demo



Eric is fighting back with IJ to stop the county from destroying homes without due process or compensation.



They Know Where You've Been:

IJ Fights Norfolk's New Surveillance Network

BY TAHMINEH DEHBOZORGI

In 2023, Norfolk, Virginia—home of the world's largest naval base—quietly unveiled a sprawling surveillance network that can track the city's entire driving population. Now IJ clients Lee Schmidt and Crystal Arrington are fighting to protect their privacy—and yours.

Lee Schmidt, a husband and father, recently retired from a two-decade career in the Navy. Norfolk is his home: It's where he attends church, shoots at the range, and raises his kids. The Norfolk area is also home to mother and entrepreneur Crystal Arrington, who lives in nearby Portsmouth. As an eldercare aide, Crystal drives into Norfolk daily to help her clients get to grocery stores, doctor's appointments, and anywhere else they need to go.



Norfolk, Virginia, installed 172 cameras that track every car as drivers go about their lives. Two local residents, including **Lee Schmidt**, have joined with IJ to challenge this surveillance in court.

So Lee and Crystal were shocked to find out that, with little fanfare, Norfolk had partnered with a tech company called Flock to install a surveillance dragnet. Flock describes itself as “a tech company eliminating crime,” offering a suite of options to local governments so that law enforcement officials can “stop wasting valuable time hunting for evidence.”

Norfolk’s 172 cameras are placed strategically so that, as the police chief bluntly explains, “It would be difficult to drive anywhere of any distance without running into a camera somewhere.” The cameras capture the license plate of every passing vehicle. Flock then uploads the images to a database, where they are run through an algorithm to create a unique “Vehicle Fingerprint” that allows law enforcement to go back in time and create maps of where people have been, where they tend to drive, and even who they tend to meet up with.

Let’s be clear: Lee and Crystal haven’t done anything wrong. They’re not wanted by the police or under suspicion of any crime. But Flock still studiously logs their comings and goings, just like it does for every driver. And not just in Norfolk; with Flock cameras in over 5,000 communities, anyone with access to the system can keep tabs on nearly any driver, anywhere in the nation. Nor is this threat hypothetical. Multiple officials in Kansas, for instance, used Flock’s system to stalk their ex-partners.

None of this is reasonable or constitutional. One of the major reasons for the American Revolution was British officials’ use of so-called general warrants to conduct arbitrary and blanket searches of the colonists. This “curtain of technology,” as Norfolk’s police chief calls it, gives modern officials that same power—one that the Fourth Amendment was designed to curtail.

Fourth Amendment law, while imperfect, has tried to keep up with technological advances in order to protect our rights. Though courts tend to find that people have no reasonable expectation of privacy when they briefly appear in public, that principle does not extend to round-the-clock monitoring made possible by modern technology. In 2018, the U.S. Supreme Court held that officials had to get a warrant based on probable cause before they could subpoena seven days of historical location data from a cell phone carrier. In 2021, the 4th Circuit held that ongoing aerial surveillance over the city of Baltimore was unconstitutional.

If the city wants to track specific individuals, it can do what the police have always done: get a warrant. With this lawsuit, the newest case in IJ’s Project on the Fourth Amendment, Lee and Crystal hope to ground Norfolk’s unconstitutional surveillance—and send a strong signal to other cities nationwide.


The concern in both cases was that tracking people’s locations over time, even in public, would allow the government to learn intimate details about a person’s life—from habits to religion to health to relationships—that would otherwise be impossible to know without effectively stalking that person. The courts have made clear that such power cannot be used without judicial oversight.

In other words, if the city wants to track specific individuals, it can do what the police have always done: get a warrant.

With this lawsuit, the newest case in IJ’s Project on the Fourth Amendment, Lee and Crystal hope to ground Norfolk’s unconstitutional surveillance—and send a strong signal to other cities nationwide. ♦

Tahmineh Dehbozorgi is an IJ attorney.





AS WE PREDICTED ...

IJ DEFEATS DYSTOPIAN “FUTURE CRIME” PROGRAM

BY ROBERT JOHNSON

The sheriff of Pasco County, Florida, had an idea straight out of *Minority Report*. Rather than wait for crime to occur, he would use an algorithm to predict who would commit future crimes.

The algorithm was little more than a glorified Excel spreadsheet, and the sheriff’s own officials acknowledged that they had no crystal ball. But even if the predictions were basically guesses, they came with real consequences. Deputies made regular home visits to targeted people, often late at night or early in the morning, and looked for reasons to bombard them with citations for picayune violations like tall grass, unvaccinated pets, or excessive window tint on parked cars.

THE SHERIFF OF PASCO COUNTY, FLORIDA, HAD AN IDEA STRAIGHT OUT OF *MINORITY REPORT*. RATHER THAN WAIT FOR CRIME TO OCCUR, HE WOULD USE AN ALGORITHM TO PREDICT WHO WOULD COMMIT FUTURE CRIMES.

The goal, as one deputy acknowledged in an email, was to “get them to move away or go to prison.”

Many of the targeted people were under the age of 18, and the harassment extended to their parents. In a performance review, one deputy bragged that he issued one mother so many citations that she was evicted from her home.

IJ sued in 2021 on behalf of four Pasco County residents—one who was on the list and three who were parents of listed children. In June 2021, the article in these pages announcing the case ended with a prediction: “We will remind Pasco County,” we wrote, “that the dystopian plotlines need to stay in works of fiction—not policy manuals.”

Now our prediction has come true.

On the eve of a three-week trial scheduled to begin in December 2024, the sheriff gave up and admitted that his “predictive policing” program violated the Constitution. The sheriff promised he had ended the program, and he promised (which we made a court-enforceable agreement) never to bring it back again. The sheriff also agreed to pay our clients a six-figure sum for what they had to endure.

IJ lawyers love to fight, and, on a personal level, we were looking forward to going to trial to

WHEN WE FILED THE CASE, OUR GOAL WAS
TO SO THOROUGHLY DISCREDIT PASCO'S
PROGRAM THAT IT WOULD NEVER BE COPIED.
THAT GOAL HAS BEEN ACHIEVED.

expose the sheriff's misdeeds. We had hours of body camera footage ready to play, along with hundreds of pages of the sheriff's own internal documents. The professor who invented the idea of "predictive policing" was set to testify that the sheriff's program was a bastardization of his life's work—as ill-conceived as it was unconstitutional.

It would have been a fun trial. But, at some point, when the other side says you win, then you win.

When we filed the case, our goal was to so thoroughly discredit Pasco's program that it would never be copied.

That goal has been achieved. From now on, Pasco's program will stand as a cautionary tale for other law enforcement officials—an idea so

unconstitutional that the sheriff was forced to give up, rather than defend himself at trial.

Meanwhile, as you read on page 10, we're standing guard against other technological innovations that treat the innocent like criminals with no regard for constitutional safeguards.

And if, despite all that, somebody is foolish enough to try this idea again, we can offer another prediction: We'll be there to make sure they regret the choice. ♦



Pasco sheriff's deputies subjected **Robert Jones** to so much harassment that he moved his family out of the county. Now the sheriff's office has admitted its behavior was unconstitutional.

Robert Johnson is an
IJ senior attorney.



Santa Clara Wine Country Becomes Fine Country



When vineyard manager **Marcelino Martinez** (bottom) lost his lease in 2013, vineyard owners **Michael and Kellie Ballard** (top) let him move a trailer home onto their property for him and his family to live in.

BY PAUL AVELAR

Michael and Kellie Ballard have owned Savannah-Chanelle Vineyards in Santa Clara County, California, for nearly 30 years. The Ballards own about 60 acres of relatively remote land that includes a rolling hillside vineyard, winery buildings, a babbling brook, and a redwood forest.

For the past 20 years, Marcelino Martinez has worked as the vineyard manager and become like family to the Ballards. In 2013, when Marcelino lost his lease on a nearby home, he asked the Ballards if he could move a trailer home onto an out-of-the-way part of their property.

He did so because Santa Clara County is one of the most expensive housing areas in the country. Zoning laws and other regulations have restricted housing availability and driven up costs. Many working-class people have already been driven out of the area. Without the Ballards' help, Marcelino and his family too would have been forced to give up their good jobs and their children's good school and move out of the area entirely.

The Ballards gladly agreed to help the Martinez family.

But living in a trailer in Santa Clara County is technically illegal (though temporarily living in one is OK in some circumstances). When the county found out about the arrangement, the Ballards were faced with a horrible choice: either kick the Martinez family off their land or get fined every single day that the Martinez family lived there.

For the Ballards, the choice was easy: The Martinezes would stay. And they began the process of acquiring a legal home for the family. But delays due to permitting, COVID-19, and other issues meant that their plan has taken years to come to fruition.



Savannah-Chanelle Vineyards has plenty of room for Marcelino's home, but Santa Clara County has fined the Ballards \$120,000 because they refuse to evict Marcelino and his family.

During all that time, the county continued to fine them \$100 per day. These fines ultimately reached a staggering \$120,000. They were not imposed by a judge or a jury. Instead, a county official called a "hearing officer" levied them.

The Ballards have already spent years and tens of thousands of dollars—even when their business was closed for two years during the pandemic—getting all the expensive studies and permits the county requires just to put a home on the property. Massive fines on top of that serve no purpose.

IJ has now taken up the Ballards' case. We are challenging the ruinous daily-accruing fines imposed on their charity that harmed no one—using their own property to provide a secluded and beautiful place for the Martinez family to live—as a violation of the Excessive Fines Clause.

And this isn't our first case involving administrative officials with consolidated power to write their own rules, impose penalties, and adjudicate disputes. We've filed three cases involving separation of powers in federal agencies. We're now taking the fight to the local level by challenging the ability of county administrators, rather than judges and juries, to impose such fines.

Human kindness should not be illegal. The Ballards face outrageous fines just for providing safe, affordable housing for their long-time employee and his family in an area that government zoning regulations have already made prohibitively expensive. The Ballards haven't hurt anyone; they cannot be fined for doing good. ♦

The Ballards have already spent years and tens of thousands of dollars getting all the expensive studies and permits the county requires just to put a home on the property. Massive fines on top of that serve no purpose.



Watch the case video!
iam.ij.org/Santa-Clara-fines

Paul Avelar is the managing attorney of IJ's Arizona office.



A TEXAS WOMAN'S NIGHTMARE BEFORE CHRISTMAS

BY JARED MCCLAIN

Early in the morning on Christmas Eve 2022, Jennifer Heath Box was disembarking a cruise ship in South Florida so she could fly home to Houston and spend Christmas with her three adult children. That Christmas was going to be the last she'd have all her children together, as her youngest child—her son, Christopher—was leaving on December 27 for a three-year deployment with the Marines. But Jennifer's life was suddenly thrown off course when Broward

County sheriff's deputies surrounded her as she tried to disembark.

The deputies insisted they had a warrant for Jennifer's arrest on suspicion of child endangerment in Houston. Jennifer and her husband, Kyle Box, immediately told the deputies that they had the wrong person—Jennifer didn't even have minor children.

The red flags should have been obvious. Jennifer was 23 years older and 5 inches taller than the subject of the warrant. She had different color



The deputies insisted they had a warrant for Jennifer's arrest on suspicion of child endangerment in Houston. Jennifer and her husband immediately told the deputies that they had the wrong person—Jennifer didn't even have minor children.

Putting someone in jail because their name is “close enough”—and ignoring all evidence that the person has not committed any crime—violates the Fourth Amendment and the right to due process.

eyes, hair, and skin, lived in a different county, and had different Social Security and driver’s license numbers. The two women didn’t even have the same name; the suspect was Jennifer Delcarmen Heath. All this information was available if the officers had bothered to check.

But having a similar name as a suspect was close enough for the Broward County Sheriff’s Office. Even when they ran Jennifer’s license and saw she had no warrants, they didn’t stop to double check. They strip-searched Jennifer, checked her body cavities for contraband, and locked her in a cell so cold that the South Floridian guards were bundled up in winter coats and hats. Jennifer had to lie back to back with her cellmate just to keep warm. But sleep was hardly an option because guards blared death metal music into the cells. “You just felt like you weren’t a human anymore,” Jennifer said.



Broward County was never going to confirm Jennifer’s identity. They did not compare Jennifer’s fingerprints or any of her information to that of the suspect. Instead, they had her arraigned and transferred her to a women’s prison where they planned to hold her until a Houston official came to extradite her—if an official ever came.

Jennifer only got out thanks to the persistence of her husband and brother. They hired an attorney who, in just a few hours, figured out exactly where the officers had gone wrong. And then they spent Christmas calling Broward County, pleading for someone to look at the evidence. Once the officers finally acknowledged their mistake, they still made Jennifer spend another night in jail. By the time she got out, she had spent three days in a cell, missed Christmas with her kids, and missed seeing Christopher before he deployed.

Just because the police have a warrant for one person doesn’t mean they can lock up anyone with a similar name without performing any due diligence. Putting someone in jail because their name is “close enough”—and ignoring all evidence that the person has not committed any crime—violates the Fourth Amendment and the right to due process. IJ brought Jennifer’s case as part of our Project on Immunity and Accountability to make sure that officers who make such grievous and preventable mistakes can be held accountable. ♦

Jared McClain is an IJ attorney.



FORFEITURE TRIPLE PLAY

TO CLOSE OUT 2024

BY DAN ALBAN

Good things came in threes for opponents of forfeiture abuse in late 2024.

First, after IJ released a YouTube video in July depicting the Drug Enforcement Administration's shocking treatment of an air traveler, the Department of Justice's Office of Inspector General issued a scathing report about DEA airport forfeitures in November. That report led to the DOJ suspending the DEA's so-called "consensual encounter" airport interdiction program nationwide just before Thanksgiving, allowing holiday travelers to breathe a sigh of relief.



Watch the case video!
iam.ij.org/DEA-seizure



IJ has been criticizing DEA's predatory airport cash seizure practices for years—and we are suing about them in a class action. Spurred by our video, which has received over 3 million views, the OIG report confirmed many of the abuses. And, at least for the time being, the DEA's most abusive airport seizure practices have been grounded. Now IJ is looking to make these policy changes permanent through our lawsuit and through the passage of federal forfeiture reform legislation.

Second, a study by IJ researchers on the effects of forfeiture reform in New Mexico was published in the peer-reviewed *Criminal Justice Review*. Using nine years of monthly data from the FBI's Uniform Crime Report, the study found that eliminating civil forfeiture—and ending the financial incentive to pursue criminal forfeitures—did not worsen crime rates in New Mexico relative to rates in neighboring states.

When New Mexico enacted these reforms in 2015, law enforcement groups warned that this would open the state to cartels, promote criminal activity, and hamper police and prosecutors' ability to do their jobs by directing forfeiture proceeds away from law enforcement coffers. But IJ's analysis demonstrated that civil forfeiture and forfeiture proceeds are not needed to fight crime. Loyal followers of IJ's forfeiture work may recall that an early version of the study was first published in 2020 in the third edition of our *Policing for Profit* report.

Third, IJ's clients Henry and Minh Cheng, who own a wholesale jewelry business in California, will get back the \$42,000 seized by

Indianapolis police after the cash was shipped to them by a retail customer on the East Coast.

The seized parcel traveled through the FedEx hub in Indianapolis, the second largest in the United States, where Indiana police have developed a profiteering forfeiture operation to seize “suspicious” packages and forfeit millions of dollars. For example, the flimsy reasons given for seizing and searching the Chengs’ package include that it was a newly purchased box taped on all seams, just as the FedEx website recommends.

In late November, Marion County prosecutors agreed to return the seized money a few months after IJ filed suit. But IJ’s class action countersuit over unconstitutional seizures at the facility will continue. Indiana police simply have no business seizing property being shipped through the state without any evidence of a crime actually being committed there.

Some say three times is a pattern—here’s hoping for another trifecta of forfeiture victories early in 2025! ♦

Dan Alban is an IJ senior attorney and co-director of IJ’s National Initiative to End Forfeiture Abuse.



KATRIN MÁRQUEZ ANNOUNCED AS FIFTH ELFIE GALLUN FELLOW IN FREEDOM AND THE CONSTITUTION

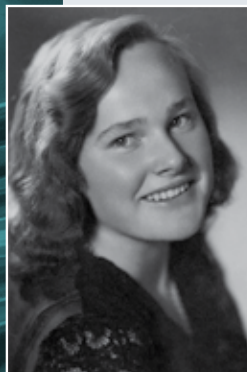
Katrin Márquez will be the fifth person with this prestigious title that, since 2014, honors the legacy of longtime IJ supporters Elfie and Ned Gallun.

Elfie’s story reminds us of the fragile nature of liberty. After living under Hitler’s Germany and Stalin’s East Germany, she risked everything to flee from totalitarian rule—even crawling across the remains of a railroad bridge in the dark of night to reach freedom. Elfie established this Fellowship to carry forth her fighting spirit.

Katrin has her own story of escaping tyranny. Born in Havana, Cuba, she was just 6 when her parents—labeled as political dissidents by the Communist government—managed to immigrate to America through the visa lottery program. Katrin now joins IJ in protecting the right to liberty that her family was never able to enjoy in their homeland.

“Having been born in a Communist country, I’m thankful every day that I get to fight to protect people’s freedoms in honor of Elfie Gallun. She understood just how precious freedom is and she fought for it. And, because she did, now I get to draw inspiration from her legacy,” says Katrin.

Katrin re-joined IJ in 2023 as an attorney after first serving as an IJ Dave Kennedy Fellow and IJ Constitutional Law Fellow and clerking for two federal judges. As the Elfie Gallun Fellow, Katrin will litigate to advance liberty and publish and speak about vital constitutional rights. ♦



Elfie Gallun (top) fled East Germany seeking freedom. Now **Katrin Márquez** (bottom), whose family fled Cuba, assumes the Fellowship created in Elfie’s honor.

BOUND AND GAGGED :

Judge Bans Civil Rights Attorney From Talking About Case



When a judge banned civil rights attorney **Daniel Horwitz** from discussing his case against a private prison, he joined with IJ to fight for his First Amendment rights.

BY BEN FIELD

One of IJ's newest cases is about a lawyer who sues governmental actors for violating his clients' rights and informs the public about those constitutional violations. That's what IJ does in every one of our cases—including through this very magazine. But a federal court in Tennessee bans that.

Daniel Horwitz is a civil rights attorney in Nashville. He's worked with IJ before and takes inspiration from our work in his own practice. Like IJ, Daniel regularly talks about his cases to the traditional news media and on social media in order to inform the public.

That is, until Daniel spoke out about constitutional violations in Tennessee prisons administered by a government contractor called CoreCivic. CoreCivic invoked a local court rule to force Daniel to take down his social media posts and to stop talking to the media. For the past two years, Daniel has sought again and again to challenge the constitutionality of the rule that is gagging him, but the court has refused to answer his constitutional challenges. So the only option left was for Daniel to partner with IJ to sue the court itself to bring its rules into line with the First Amendment.

Of course, courts can regulate attorney behavior to ensure fair trials. And the U.S. Supreme Court has held that courts can limit attorney out-of-court statements—but only when there is real evidence the speech will prejudice a trial and only if the gag order is narrowly drawn to restrict no more speech than absolutely necessary. The problem with the local rule in the Middle District of Tennessee is that it flips that constitutional rule on its head. It *presumes* that most things a lawyer might say about a case will prejudice a trial, allowing censorious parties to gag an opponent's counsel as a matter of course rather than as a last resort.

If the government and its contractors are able to silence lawyers who bring constitutional violations to light, everybody's rights are less safe and the public as a whole is kept in the dark. That's exactly what the First Amendment prevents, and it's a principle we'll vindicate in Music City. ♦

Ben Field is an IJ attorney.



Fighting For A Fresh Start

IN TEXAS

BY JAMES KNIGHT

The core of IJ's economic liberty pillar is the right to earn an honest living without unreasonable government interference. Governments across the country violate that right by requiring licenses to work and then denying those licenses to people with old, irrelevant convictions. IJ's "fresh start" cases combat those laws and fight for the principle that people should be judged for who they are now, not for who they were many years ago.

Katherin Youniacutt and Tammy Thompson know this all too well. Both women overcame substance addiction over a decade ago and went back to school, earning master's degrees in social work. They turned their lives around and want to help others do the same.

And Texans need their help. Texas has a dire shortage of social workers to deal with the exploding mental health and substance abuse issues in the state. And people who have overcome substance abuse and other forms of adversity are often the best equipped to help others beat similar challenges.

But Texas won't let Katherin or Tammy help. Under a 2019 state law, neither woman can obtain a Texas social worker license because each pleaded guilty to a single assault conviction in the 2000s (which did not come with prison time). The state won't let them work, and nothing—no amount of time, wave of recommendation letters, or sparkling credentials—can change that. The 2019 law is a *lifetime* licensing ban, and it brushes aside evidence of rehabilitation.

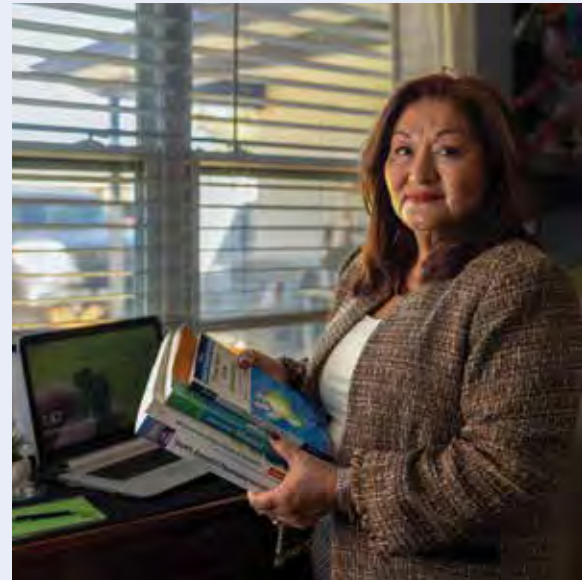
A landmark 2015 IJ win at the Texas Supreme Court confirmed that Texas' Constitution protects the right to earn an honest living without unreasonable government interference. Banning Katherin and Tammy from working isn't reasonable—it just deprives Texans of qualified, empathetic social workers.

IJ has successfully defeated a similar law in Pennsylvania and helped restore a substance abuse counselor's right to work in Virginia, where we're currently working to strike down another permanent punishment law.

Texas has shut out Katherin and Tammy because of past mistakes that say nothing about who they are today. That's why they teamed up with IJ to challenge the licensing ban. They want the opportunity to show the licensing board that they've changed, and they have the evidence to prove it.

They're ready to get to work, and IJ is proud to fight for them. ♦

James Knight is an IJ attorney.



IJ clients **Katherin Youniacutt** (top) and **Tammy Thompson** (bottom) both overcame substance addiction over a decade ago and went on to earn master's degrees in social work. But Texas says they can never get a social worker license.

Parents Fight To Restore Scholarship Program

IN SOUTH CAROLINA

BY DAVID HODGES

Yamilette Albertson is a single mom, a former Marine, and an operations manager at a South Carolina paint store. She and her children are beneficiaries of the state's Education Scholarship Trust Fund program. This program provides thousands of children from low-income families with scholarships that their parents can use for virtually any educational expense. For her part, Yamilette used the scholarships to send her three children to a local private school, where they have been thriving.

That all changed in September, when the South Carolina Supreme Court ruled that she could no longer use the scholarships to send her children to private school. According to the Court, the state Constitution permits her to use the scholarships for numerous educational expenses—tuition and fees at out-of-district public schools, expenses related to home schooling, textbooks, tutoring, and more—but one category of expense is forbidden: private school tuition and fees.



Single mom **Yamilette Albertson** used a South Carolina scholarship program to send her three children to private school, where they have thrived. Now Yamilette and IJ are defending the program.

The Court based its ruling on the state Blaine Amendment. Most Blaine Amendments, which prohibit public funding of religious schools, were invalidated following a series of IJ wins at the U.S. Supreme Court. But South Carolina's Blaine bars public funds from going to any private educational institutions, not just religious ones.

Yamilette is working with IJ to challenge the policy that the state Department of Education adopted in response to this ruling. Her argument is straightforward: The government cannot penalize her for exercising her right under the U.S. Constitution to direct the education and upbringing of her children, including by sending them to private school. The U.S. Supreme Court has repeatedly called this right "fundamental," and it has even likened it to "the specific freedoms protected by the Bill of Rights." As with those rights, the government can no more penalize a person for how she educates her children than it can punish her for how she votes, how she speaks, or how she practices her religion. And that applies even when a state is purportedly required by its own state constitution to discriminate against people when they exercise a right.

If Yamilette prevails, she will strike a critical blow against one of the few Blaine Amendments that were unaffected by IJ's prior educational choice victories. Not only that, she will reinforce the venerable constitutional principle that the government cannot penalize a person for exercising a right. And that's a victory for everyone. ♦

David Hodges is an IJ attorney.





Cities Find A New Incentive To Close Homeless Shelters

By Aaron Bolton | December 30, 2024

AILSA CHANG, HOST:

Until this summer, if cities in many states wanted to ban homeless people from sleeping in public, they had to first offer them another place to go, like a shelter. A Supreme Court ruling eliminated that requirement. Now some cities talk of getting rid of shelters altogether. Montana Public Radio's Aaron Bolton reports.

AARON BOLTON, BYLINE:

... The Flathead Warming Center is suing Kalispell, arguing it's trying to make homeless people disappear by closing it. The city isn't commenting. The shelter pushes back against the city's claims that it draws homeless people here. The shelter's director says locals are being forced onto the streets by skyrocketing housing costs. Federal data says Montana has one of America's fastest-growing homeless populations. Attorney Jeff Rowes, with the Institute for Justice, represents the Warming Center. He hopes to take the case to the U.S. Supreme Court.

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THE TEXAS TRIBUNE

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THE WALL STREET JOURNAL

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December 3, 2024

The Post and Courier

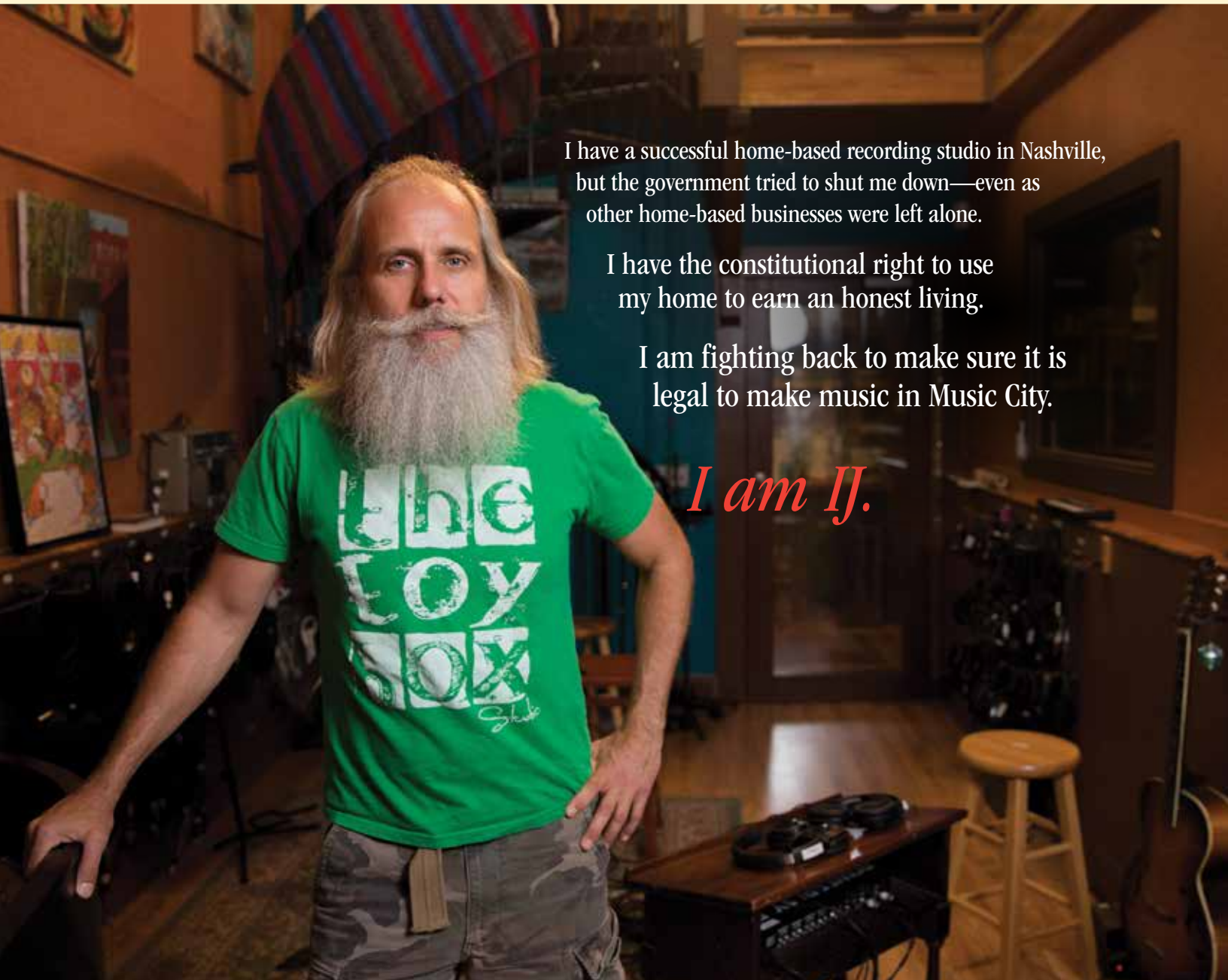
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December 5, 2024



Getting To The Heart Of Educational Choice In South Carolina

December 19, 2024



I have a successful home-based recording studio in Nashville, but the government tried to shut me down—even as other home-based businesses were left alone.

I have the constitutional right to use my home to earn an honest living.

I am fighting back to make sure it is legal to make music in Music City.

I am IJ.