



Written by [Joe Wolverton, II, J.D.](#) on November 9, 2022

Civil Asset Forfeiture: Destroying Dreams and Denying Due Process

Two sisters from Virginia — Vera and Apollonia Ward — were trying to start a business and build a better life for themselves only to be denied the American dream by overzealous law enforcement using a much misfired weapon in the tyrannical arsenal: civil asset forfeiture.

Here's the back story, as reported by [Reason](#):

Before last year, though, the Ward sisters, like many people, had never heard of civil forfeiture. They had started a business breeding American Bullies. They said they had a very successful first litter and were looking to buy two more dogs for breeding. Last November, they tried to send \$17,500 in cash through FedEx to a middleman in California, essentially a dog broker, to scout and purchase two new animals for them.

They said they received an unusual call several days later from someone claiming to be at a FedEx facility, who they later learned was a police officer. The person on the phone asked if there was anything in the package he should know about. No, they said, just the cash.

In follow-up calls, it became clear that they weren't dealing with FedEx customer service but rather the San Joaquin County Sheriff's Office, which suspected the cash was drug proceeds. It became clear that the police were neither letting the cash go to its destination nor sending it back to the Wards.

"They said they smelled marijuana on



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the money,” Vera Ward says. “We don’t smoke. It’s not plausible since my sister and I aren’t around it.”

Not to mention the sisters say they had pulled the money out of the bank several days before they sent it and had receipts to back up their claim.

“We had proof, and they were like, ‘No you don’t, that’s drug money,’” Vera Ward remembers. When the sisters refused to cave and say the money was drug proceeds, they say officers threatened to go after them for money laundering.

When the sisters still refused to admit any connection to drug dealing, the San Joaquin County Sheriff’s Office seized the money anyway, and the San Joaquin District Attorney’s Office moved to forfeit it under California’s civil forfeiture laws.

It should be noted at the beginning that the Ward sisters *were never charged with a crime*.

The San Joaquin County Sheriff seized their property without even the most perfunctory degree of due process. The Ward sisters were presumed guilty until proven innocent — innocent of a crime they not only didn’t commit, but were never charged with committing.

Like most people reading this article, the Ward sisters had never heard of civil asset forfeiture before law enforcement used it to justify seizing money made by the sisters from their small business.

For those readers unfamiliar with this tyrannical transfer of wealth, a constitutional violation known euphemistically as “asset forfeiture,” here’s a summary published in 2015 by *The Washington Post*:

Since 2008, thousands of local and state police agencies have made more than 55,000 seizures of cash and property worth \$3 billion under a civil asset forfeiture program at the Justice Department called Equitable Sharing.

With this kind of money up for grabs, it is little wonder that the plague of asset forfeiture has spread across the 50 states.

Paul-Martin Foss, president and executive director of the Carl Menger Center for the Study of Money and Banking, an Arlington, Virginia-based think tank dedicated to educating the American people on the importance of sound money and sound banking, wrote:

Hardly a week goes by without a mention of some innocent person who is arrested and/or



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imprisoned for violating an unconstitutional law, an arcane regulation, or simply being in the wrong place at the wrong time. For completely innocuous conduct, they find themselves at the mercy of an uncaring, unfeeling bureaucratic apparatus that chews them up and spits them out.

As with so many of the other ongoing assaults on the vestigial liberty enjoyed by Americans, civil asset forfeiture is justified by its perpetrators as a means of keeping the people safe.

The program has enabled local and state police to make seizures and then have them “adopted” by federal agencies, which share in the proceeds. It allowed police departments and drug task forces to keep up to 80 percent of the proceeds of adopted seizures, with the rest going to federal agencies.

Civil forfeiture procedures are based on the premise that a person’s property can be complicit in the commission of a crime. This is laughable and legally unreasonable.

The Constitution was specifically written to protect citizens from this and all other forms of unreasonable searches and seizures (Fourth Amendment), as well as to place due process protections between the governors and the governed (Fifth Amendment).

When it comes to civil asset forfeiture, the layers of constitutional violations multiply. Americans who have been denied due process — like the Ward sisters in Virginia — are subjected to a financially crippling and liberty-depriving process of defending the ownership of their property. Such tyranny is anathema to the rule of law and the protections of life, liberty, property, and the pursuit of happiness that is the only legitimate purpose of government in the first place! This is the attitude adopted by our Founding Fathers in the Declaration of Independence and in the U.S. Constitution.

Some conservatives may argue that while it is sometimes misused, the power of civil asset forfeiture should be retained by police in order to punish “drug dealers.” Remember, it was the use of this designation by the San Joaquin Sheriff’s office that made that agency believe its persecution of the Ward sisters was justified.

Not surprisingly, there is another constitutional problem in that premise.

In the Constitution, the federal government was granted “few and defined” powers. These powers were listed (enumerated) so as to bind those who would obtain any sort of authority in the manifold offices of the federal government.

In *The Federalist*, Alexander Hamilton explained that if the federal government acted outside the scope of its constitutional authority, then those acts were not laws; they were “mere usurpations,” and deserved to be treated as such.

Although it is unpopular in some conservative circles to talk about, the so-called war on drugs is one example of an area where the federal government has absolutely no constitutional authority to act.

Americans would go a long way toward eliminating the evil of civil asset forfeiture by demanding that their federal representatives repeal the full panoply of federal drug regulations: “laws” that incentivize the “policing for profit” that fuels the forfeiture scheme.

Thanks to the work of the Arizona-based Goldwater Institute, the Ward sisters were able to recover the money unjustly seized by the sheriff’s office.

However, the sheriff’s office kept the sisters’ cash for six months, regardless of the irrefutable fact that



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they (law enforcement) had no evidence to support any accusation of money laundering on the part of the Ward sisters.

As anyone who has started a small business knows, six months without income can be the end of the American dream. Fortunately for Vera and Apollonia Ward, this despotic denial of due process did not kill their business. It did, however, do serious harm to their trust in the police.

“It was a very disheartening and offensive ordeal we had to go through,” Apollonia Ward said, as reported in *Reason*. “We had to prove we weren’t criminals. We had to go through a lot of back and forth, and our lawyers had to stay on top of them to get them to do everything right.”



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