

Traverse City man looks forward after forfeiture suit dismissed

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A visit from the Traverse Narcotics Team still haunts Ken Murray more than two years after he awoke to detectives rummaging through his home in search of ill-gotten gains.

Murray, 66, years ago embarked on a legal battle spanning three counties after he sought to defend operations at his three, local marijuana dispensaries. Most of the criminal charges levied against him were dismissed. Those that stuck netted him a single day in jail; credit for time served.

Grand Traverse County prosecutors — without filing criminal charges— also contended Murray’s Traverse City home was purchased with the proceeds of criminal activity. They in 2016 sought to seize his property and two bank accounts in a controversial civil suit that was dismissed last week.

“I kept telling them there was nothing illegal around this house ever,” Murray recounted.

Court records detailed numerous raids from TNT, a multi-jurisdictional task force aimed at curbing drug trafficking in northwest Michigan. Murray contended several encounters were more focused on cashing in on his assets than enforcing the laws against drugs.

“When they raided this house at 2 a.m. I must’ve heard it ten times: Where’s all the money? ... That’s all they were here for,” Murray said. “That’s all their motivation: Money. It’s always money.”

A state law allows law enforcement agencies to seize assets if they believe they’re being used for criminal activities. Prosecutors can also file civil forfeiture suits for property, like Murray’s bank accounts and his Falconhurst Drive home, if it’s worth more than \$50,000.

Tax records valued the home at more than \$250,000; Murray’s bank accounts had less than \$4,000.

Prosecutors agreed to dismiss the civil forfeiture suit against him after they found there wasn’t enough evidence to pursue it, said Grand Traverse County Deputy Civil Counsel Chris Forsyth.

Advocacy groups for years have lobbied against statutes that allow civil forfeiture cases to proceed. Some — like officials at the Cato Institute’s Project on Criminal Justice — contend forfeiture laws allow for “policing for profit” because police, in most cases, can keep the proceeds for their department.

Michigan law allows law enforcement to use a portion of asset forfeiture funds to purchase new equipment and “enhance all law enforcement activities.” The program saves taxpayer dollars and deprives criminals of cash and property obtained through illegal activity, said Michigan State Police officials.

Annual reporting detailed Michigan’s law enforcement agencies collected more than \$244 million in gross forfeiture proceeds between 2001 and 2013, an average of more than \$19 million per year, according to a report from the Institute for Justice. And none require a criminal conviction.

“Law enforcement has to allege that some criminal activity is afoot and then it’s the property owner that has to prove otherwise,” said Cato Institute researcher Jonathan Blanks. “This archaic thing has become a weapon in the drug war and it’s really upending the whole legal process.”

Grand Traverse County Prosecutor Bob Cooney said he understands the concerns surrounding civil forfeiture but argued state legislators have forced the justice system to depend the legal maneuver to balance budgets.

TNT received more than \$90,000 from civil forfeitures in Antrim, Benzie, Grand Traverse, Kalkaska, Leelanau, Missaukee and Wexford counties in 2014, according to MSP reports. It received \$147,319 in 2013. MSP officials have yet to respond to a Freedom of Information Act request sent last week seeking more recent asset forfeiture reports.

“I will say it’s a valuable tool in the fight against narcotics trafficking,” said MSP Capt. Mike Caldwell. “Forfeiture must be vetted and approved by the prosecuting attorney. ... I understand it’s a controversial topic as of late but we’ve been engaged in civil forfeiture for years.”

Kalkaska County Chief Assistant Prosecuting Attorney Ross Holec said the string of felony charges levied against Murray were never intended to net a conviction. They simply wanted to close up “Magic Buds” on Cedar Street and prevent Murray from opening additional dispensaries, he said.

Cooney maintained the proceeds from illegal activity should be up for grabs if his office can find “clear and convincing” evidence of a crime. He believes that standard — unlike the “beyond a reasonable doubt” proof used in criminal cases — is strict enough.

“We’d just as soon be out of the (civil forfeiture) business altogether if the state had a better source of funding,” Cooney said. “There has always been this concern that the narcotics team is seizing assets with insufficient evidence to be sure it’s from drug proceeds.

“Of course we make an effort to make sure that’s not happening.”

Blanks argued the tool still over-incentivizes police to get involved with drug interdiction for the wrong purposes. He said a legislative change is the only way to address what he called “highway robbery” of civil forfeiture, noting Michigan as among the most active in utilizing the seizures in the country.

State legislators last year lowered the bond requirement for property owners to reacquire their forfeited property, eliminating a requirement they pay 10 percent of the value of the assets before they can attempt to reclaim them. Another bill recently introduced in the House also could require a criminal conviction for forfeiture.

Murray said he has no regrets but still lives in fear that detectives could one day return for more.

“Until you’ve been through a process like this, I don’t think the average person can even imagine it,” Murray recounted. “Even though I knew I didn’t do anything wrong, I woke up to that fear (of continued searches and seizures) every morning. ... It can happen to anybody.”