

## LOCAL NEWS

### Man may lose \$22,870 to law enforcement after recent stop

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By **STEVE HORRELL**

[stevehorrell@hotmail.com](mailto:stevehorrell@hotmail.com)

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One day last month, Jerome Chennault was pulled over by a Granite City police officer for following another car too closely. Chennault told the officer he had spent two weeks visiting his son in Philadelphia and was on his way home to Henderson, Nev.

But in court records that were filed later in the case, the officer wrote that he became suspicious "due to his inappropriate laughing and his changing story as to his route." The officer asked for permission to search Chennault's 1992 BMW, and in the back seat he discovered \$22,870 in the side pocket of a black travel bag.

Since then the Madison County State's Attorney's Office has filed paperwork to have the cash forfeited, and to get his money back Chennault will have to return to Edwardsville, probably several times, and fight the case.

After the money was found, Chennault told the officer that he had been in South Carolina intending to use it to buy a house, according to a Verified Complaint for Forfeiture issued by the State's Attorneys' Office. A narcotics dog was brought in, which "gave a positive response to the bag . . . and on the currency itself."

When Chennault was questioned further, he claimed that he had withdrawn \$28,000 from an account in Las Vegas "and had left home with it three or four months prior intending to buy a house in South Carolina while staying with a nephew," according to the complaint.

The incident clearly irritates Madison County Public Defender John Rekowski. "The whole process of forfeiture offends my civil liberty sensibilities, and always has," he said at his office in the Administration Building.

"To forfeit when there is a crime is one thing. To say that you have to come in and post, in this case, more than \$2,000 with the court to get back the \$22,000 that they took from you because they felt like taking it, is ridiculous."

For years, asset forfeiture laws have been used as a tool for deterring drug crimes.

In recent years, law enforcement officials have used them to combat DUI, reckless homicide, and sexual assault. And increasingly civil asset forfeiture laws are being used in cases in which no one has been charged with a crime.

According to the civil liberties group Forfeiture Endangers American Rights, in 80 percent of seizure cases, no charges are ever filed.

Rekowski reviewed the prosecutor's complaint recently and said: "They don't have anything to charge him with. It's offensive, and it will always be offensive. This is the problem when police officers and police departments have a financial interest in doing their job. We got rid of bounty hunters because they were not a good thing. This is modern day bounty hunting. It wasn't good in the Wild West, and it's not good here in Illinois."

In the late 1700s, federal forfeiture laws were used to seize pirate ships. They were relatively dormant until the late 20th century, when Congress enacted the Comprehensive Crime Control Act of 1984. The act vastly expanded the forfeiture laws as they applied to drug offenses.

According to F.E.A.R., the justification for civil forfeiture laws is based on a premise that property itself, not the property owner, can be guilty of a crime.

As Terrence Reed noted in a paper on forfeiture abuse for the Cato Institute: "Property owners whose assets have been seized by government officials often try to press their claims for relief through traditional,

well-respected legal arguments, such as they have not been accused of criminal conduct, that they are presumed by law to be innocent of wrongdoing, or that the government has taken their property without affording them any prior notice or hearing. Unfortunately, those facially formidable legal claims that normally would find ample support in the Constitution, prove unavailing. Instead, an otherwise rational judge . . . informs the property owner that it is his property, not he, that is being prosecuted by the government; that in the eyes of the government, the property is the criminal perpetrator and that it is his property rights (or lack thereof), not those of the human owner, that determine the sufficiency of the procedures the government can use to confiscate it."

The Comprehensive Crime Control Act of 1984 allowed police to seize property used in conjunction with drug trafficking. Four years later, with the creation of the Asset Forfeiture Fund, law enforcement officials were allowed to keep the spoils.

In Chennault's case, the state is seeking the cash under the Controlled Substances Act, the Cannabis Control Act, and the Illinois Drug Asset Forfeiture Procedure Act. Chennault has 45 days to respond by mail or a judgment can be entered against him. The legal proceedings can take a year or more.

Rekowski says it's not surprising that traces of drugs were found on Chennault's travel bag and money. "Virtually all money has drugs on it in this country," he said. "We know that. When Janet Reno was the Attorney General, they tested the money in her purse and 85 percent of it had traces of drugs on it. And she was Attorney General of the United States. Large bills, especially, are contaminated."

The Madison County State's Attorney's Office gets to keep 10 to 12 percent of the proceeds from forfeitures, with the remainder going to the arresting police agency; in some cases the Illinois State Police and the Drug Enforcement Administration receive a portion of the forfeitures.

The Madison County State's Attorney's Office has restrictions on how the department spends that money, said Stephanie Smith, a spokesperson for the office.

In the case of DUIs, forfeited money can be used to help police agencies pay for equipment used to help apprehend and prosecute DUI offenders.

This week, Madison County State's Attorney Bill Mudge announced that four local police agencies will be receiving in-car video systems that can provide visual documentation of drunk or impaired drivers, something that should lead to an increase in successful prosecutions, Mudge said.

The departments include Maryville, Granite City, Alton and the Madison County Sheriff's Department. The equipment costs \$5,000 apiece.

Since 2002, Mudge has encouraged an aggressive approach to drug asset forfeiture.

In the past eight years, the department has taken in nearly a half million dollars. The money has been used for a wide variety of law enforcement tools, including police training, equipment, canine enforcement, and expert witness fees.

But Rekowski said that law enforcement had no grounds to take Chennault's money. "There is nothing in this complaint but conjecture, speculation, guessing," he said. "This isn't a case of connecting the dots and drawing a picture, it's a case of throwing in a bunch of buzz words and hoping the guy doesn't show up."

On Friday, Mudge issued a statement about the case:

"We welcome a discussion with Mr. Chennault or his attorney as to the origins of a substantial amount of unexplained cash found in a black duffle bag in the back seat of his car that a trained narcotics dog 'hit on.' But we will not respond to a public defender intermeddling in a pending civil case that the taxpayers do not pay him to be involved in, and in a case in which he cannot represent a party."

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