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Legalized highway robbery

By Walter Rubel / wrubel@lcsun-news.com

Stephen Skinner and his son Jonathon Breasher were not only Driving While Black when they were pulled over by State Police on Interstate-25 near Raton in 2010, they were also carrying nearly \$17,000 in cash.

That was enough to raise red flags and, ultimately, to result in their money being seized during a second traffic stop down the road in Albuquerque. Skinner and Breasher were traveling from their home in Chicago to visit relatives in California, with a stop in Las Vegas planned along the way. The money in their luggage was intended for the casinos. But that was, apparently, hard for officers to believe.

"I'm going to give DEA a call and see what they want to do," the officer is heard saying on his belt tape recording.

"This boy has \$3,000 right here alone," he added in regard to Skinner, who was just shy of his 60th birthday.

He was issued a written warning for speeding 5 mph over the limit. But the real warning came as they were preparing to leave when the officer told them, "Trust me, it's not over with yet."

Sure enough, when they got to Albuquerque they were stopped again this time for an alleged improper lane change. A federal Homeland Security officer arrived minutes after the traffic stop, seized the money and the rental car and left them at the airport with no way to get back home. Skinner and Breasher were never charged with a crime. Eighty percent of those who have their property seized by the federal government never face criminal charges, according to a **Cato Institute** study in 1995.

They didn't get their money back until a settlement announced Thursday by the American Civil Liberties Union, which had taken up their case.

In 2002 the New Mexico Legislature passed a law intended to prevent law enforcement agencies from profiting from such seizures. It required that seized assets go into the state's general fund and be used for drug treatment, education and substance abuse prevention.

To get around the state law, local law enforcement agencies began transferring seized assets to the federal government, which then returned up to 80 percent back that agency. According to a 2010 report by the Institute of Justice, the federal

government seizes approximately \$3.5 million a year in private assets in New Mexico.

"Essentially, New Mexico law enforcement agencies seize civil assets from people who are not charged with a crime and if those people do not have the resources to challenge the forfeitures, the federal government will then kick back the majority of the money to the local police to use at their discretion, bypassing the state fund," ACLU-NM Executive Director Peter Simonson said in a prepared statement.

In 2011, a state judge ordered former Sheriff Darren White and Bernalillo County to pay more than \$3 million in damages to hundreds of drivers who had been stopped, often along Interstate-40, and had cash seized. In almost all of those cases, no criminal charges were ever filed, but the money was kept as "evidence," the Albuquerque Journal reported.

In 2007 the New Mexico Court of Appeals ruled that State Police were subject to the state forfeiture law, and could not transfer seized assets to the federal government and then split the proceeds.

Seizure laws are intended to go after the profits of drug dealers, but any time the government can forcibly take the money or property of private individuals, there had better be plenty of safeguards in place. Requiring that the money to go into the general fund removes the incentive for overzealous seizures. Loopholes allowing deals with the federal government to get around that law should be closed.

To see an interview with Stephen Skinner, go to <http://www.youtube.com/watch?v=eHABIxwZjBI>

Walter Rubel is managing editor of the Sun-News. He can be reached at wrubel@lcsun-news.com or follow @WalterRubel on Twitter.