



## **Has asset forfeiture gone too far? Truck seizure case sparks outrage, a call for change**

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WASHINGTON – Two years ago, Gerardo Serano – an American citizen, Kentucky farmer and a one-time GOP Kentucky statehouse candidate – was driving his brand new, \$60,000 Ford F-250 pick-up truck to visit relatives in Mexico, snapping pictures along the way, when Customs and Border Patrol agents halted him at the border, demanded his cell phone, and asked him why he was taking pictures.

"I just wanted the opening of the bridge. I was gonna take the opening of the bridge, the entrance of the bridge. That's all I wanted to do," Serano told Fox News.

As a self-proclaimed student of the Constitution, Serano said he knew his rights, and protested to Customs and Border Patrol agents vehemently when they asked him to unlock his phone.

"You need a warrant for that," he says he told them. They searched his truck and found five bullets in a magazine clip that Serano, a Kentucky concealed carry permit holder, forgot to remove before leaving his home.

Gerardo Serrano showing a photo of his seized truck. (Institute for Justice)

"We got you," he says border agents told him. He was detained, but never arrested, nor charged, nor tried, nor convicted. However, agents did seize his prized new truck. Two years since its seizure, they have yet to give it back.

Serano is still making monthly payments of \$673 on the truck as well as paying for its insurance and Kentucky license fees.

His attorneys at the Institute for Justice say Customs and Border Patrol has told them the truck was subject to the government's Civil Asset Forfeiture program because it was used to "transport munitions of war."

The Civil Asset Forfeiture program has its roots in English law that American colonists rebelled against. Their rebellion was ultimately codified in the Fourth Amendment, which reads, in part: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated..."

Gerardo Serrano showing the notice of seizure he received when his truck was seized. (Institute for Justice)

Despite that unambiguous language, civil asset forfeiture was revived in the 1930s Prohibition era against bootleggers and mobsters. It was revived again in the 1980s war on drugs and continues to this day.

"It's absolutely astonishing that civil forfeiture is a policy that we have in this country," said Clark Neily of the Cato Institute. "It is totally unjust, unfair, and I think it's unconstitutional."

Sen. Rand Paul, (R-KY) agrees.

"There are instances of people, young people, getting some money and saying, 'I'm moving to California from Boston.' They're stopping in some small town in Nevada, and they have a thousand bucks their dad gave them to get started," Paul said. "And the police just take it and say: 'You prove to us that this isn't drug money.'"

Gerardo Serrano's truck was seized over five bullets, which he says were lawfully his. (Institute for Justice)

Morgan Wright, a senior fellow at the Center for Digital Government, spent 20 years as a police officer and detective in Kansas. He cites the benefits of civil asset forfeiture.

"We seized everything from cars to houses to money to jewelry to you name it," he said. "One of the cash seizures I had, had plans for a methamphetamine laboratory. They had documented intelligence that they had people working in these operations, people selling cocaine - cartel activity out of Mexico."

Wright acknowledges asset forfeiture may have gone too far.

"One of the worst things you can do in law enforcement is to take a good tool and abuse it," Wright said. "So that restrictive regulations come down on it, and it's taken away from everybody."

Many contend the program's abuses outweigh its benefits. Congressional critics were outraged, when, this summer, Attorney General Jeff Sessions ended Obama-era restrictions that blocked forfeiture without a warrant or criminal charges.

In a rare show of bipartisanship, conservative House Republicans joined liberal Democrats this month in rolling back Sessions' undoing of the Obama-era reforms. During floor debate, Rep. Dana Rohrabacher said: "Asset forfeiture is a crime against the American people committed by their own government."

Gerardo Serrano with his new, leased truck. He is still making monthly payments of \$673 on the seized truck as well as paying for its insurance and Kentucky license fees. (Institute for Justice)

Tulsi Gabbard (D-Hawaii) echoed his sentiment.

"The Fourth Amendment to the Constitution exists to protect the citizens of this country from being deprived of life, liberty or property without due process of law. In practice and in principle, adoptive forfeiture is a violation of that Fourth Amendment," she said

The Senate is also poised to act.

"We have a free-standing bill that says the government shouldn't take peoples' property without a conviction, that the burden is on the government that you actually agreed to commit a crime," Sen. Paul told Fox News.

"We also will look at, as the funding bills come through in the House, if they do bring up the Appropriation Bill for the Department of Justice, I will attach that language to it," he added.

Many say what's needed is a Supreme Court test case. It may get one.

Serano, represented by the Institute for Justice, is suing Customs to get his truck back and to end the policy of civil forfeiture once and for all. Justice Clarence Thomas has publicly said the high court needs a good case that address the problems of civil asset forfeiture.