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Forfeiture without due process

By [Editorial Board](#), Published: January 2, 2012

VICTOR RAMOS GUZMAN and his brother-in-law noticed a Virginia state trooper pull up beside them as they traveled on Interstate 95 near Emporia, Va., in November. “A police car drove by in parallel, looked at our faces and on no more than that decided to stop us,” Mr. Guzman said in a sworn affidavit.

Virginia State Police say the men were speeding, driving 86 mph in a 70 mph zone and “following too closely.” But the trooper did not issue a ticket that morning despite the allegedly excessive speed nor did he charge the men with any civil or criminal violations. He did, however, seize \$28,500 in cash.

The episode sheds light on the troubling nature of forfeiture laws that are used to seize money and property without evidence that a crime has been committed. These laws are aggressively enforced in part because police organizations are often allowed to keep the proceeds.

In a statement, Virginia State Police say that the “male driver” gave the trooper consent to search the car, but the driver — the brother-in-law — does not speak English. The police also claim the men were acting suspiciously because both “disclaimed ownership of the money” and provided “inconsistent and contradictory statements” about the money.

Misunderstandings cannot be discounted; English is a second language for Mr. Guzman. But there is also a simple explanation: The money wasn’t theirs. Mr. Guzman, an El Salvador native and lawful Northern Virginia resident, says he was transporting money for the church in which he serves as secretary. He told the officer he and his brother-in-law were taking \$24,000 of the church’s cash to Atlanta to meet with the owner of a parcel of land in El Salvador, where the church hoped to build. He said \$4,000 in his possession was set aside to buy a

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trailer for church-owned land in North Carolina, and \$500 was earmarked to cover the trip's expenses. A lawyer for the church confirms Mr. Guzman's account.

After calling Immigration and Customs Enforcement, the trooper ordered the men to drive to a nearby police station, where he seized the cash and gave them a receipt. The money is being held by an arm of the immigration service, which is determining whether it should be returned. Mr. Guzman and the church have asked that the matter be referred to a federal court.

Government officials say that seizure and forfeiture laws are designed to give them some leverage over the drug runners, human traffickers and others involved in illicit activities who make a habit of dealing only in cash to evade detection. Fair enough, but shouldn't due process make an appearance and the police be forced to meet a reasonable standard of proof before they are allowed to snatch property?

Many in the Hispanic community prefer cash transactions — some because of worries over their legal status and others because they do not trust banks. It is also commonplace for religious institutions to receive donations in cash from parishioners. Lawyers for the church say they have scores of donation envelopes with the names of parishioners and the amount of their contributions. We cannot vouch for the activities of Mr. Guzman, his brother-in-law or even the church. But there is something very wrong when a law enforcement officer can simply take someone's money while providing no evidence of illicit activity.



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