

Culley

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Marshall

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ALABAMA,
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HALIMA CULLEY AND LENA SUTTON NEVER EXPECTED THE STATE TO SEIZE THEIR VEHICLES.

SO THEY DIDN'T THINK TWICE BEFORE LOANING THEIR CARS TO FRIENDS AND FAMILY MEMBERS.

-AND TRIED TO KEEP THEM THROUGH A PROCESS KNOWN AS CIVIL FORFEITURE.

**POLICE AUTO
IMPOUND LOT
NO TRESPASSING**

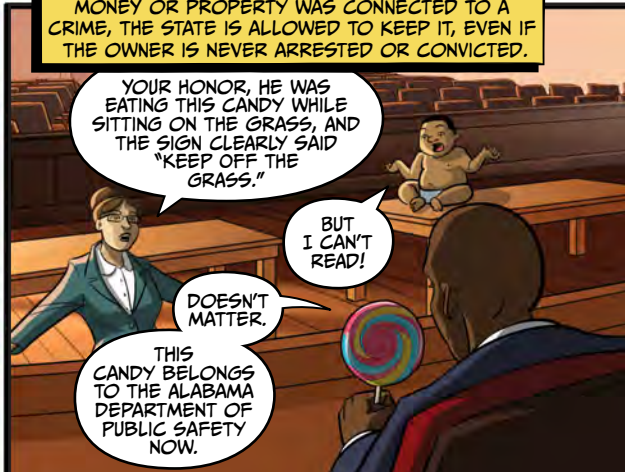
THAT IS, UNTIL POLICE SEIZED THEIR VEHICLES--

THE MEN DRIVING WERE CAUGHT WITH ILLEGAL SUBSTANCES, SO WE'RE GOING TO KEEP THE VEHICLES.

BUT WE DIDN'T KNOW ABOUT THE DRUGS!

CIVIL FORFEITURE ALLOWS POLICE TO SEIZE MONEY AND PROPERTY IF THEY SUSPECT IT IS CONNECTED TO A CRIME.

AND IF THE GOVERNMENT CAN PROVE THAT THE MONEY OR PROPERTY WAS CONNECTED TO A CRIME, THE STATE IS ALLOWED TO KEEP IT, EVEN IF THE OWNER IS NEVER ARRESTED OR CONVICTED.



ALABAMA DEPARTMENT
OF PUBLIC SAFETY

STATE AND LOCAL GOVERNMENTS
RELY ON CIVIL FORFEITURE AS A
SIGNIFICANT SOURCE OF REVENUE—

—WHICH HAS LED
TO CIVIL FORFEITURE
REGIMES THAT ARE
RIFE WITH ABUSIVE
PRACTICES.

NEXT YEAR'S
BUDGET

I BUSTED
AN ILLEGAL BINGO
GAME LAST SUNDAY.
NOW WE HAVE ENOUGH
TO GET THOSE NEW
UNIFORMS.

CIVIL FORFEITURE CASES CAN
LAST FOR YEARS, AND FIGHTING
A FORFEITURE CAN COST
THOUSANDS OF DOLLARS.

WHAT'S WORSE, THE
PEOPLE MOST AFFECTED
BY ABUSIVE PRACTICES
ARE THE ONES LEAST ABLE
TO CHALLENGE THEM.

PLEASE,
OFFICER, I NEED
THAT MONEY TO PAY
MY RENT.

YOU
SHOULD HAVE
THOUGHT ABOUT
THAT BEFORE YOU
BROKE THE
LAW!

CIVIL FORFEITURE CASES ARE VERY DIFFERENT FROM
CRIMINAL PROSECUTIONS. WHEN A PERSON IS ACCUSED
OF COMMITTING A CRIME, THE CONSTITUTION PROVIDES
A PLETHORA OF SPECIFIC PROCEDURAL PROTECTIONS.

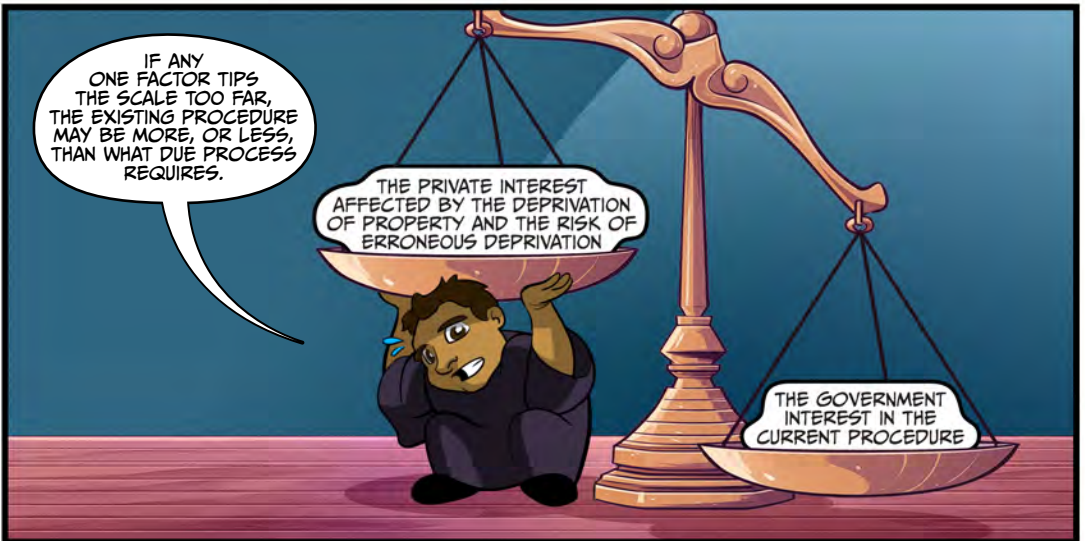
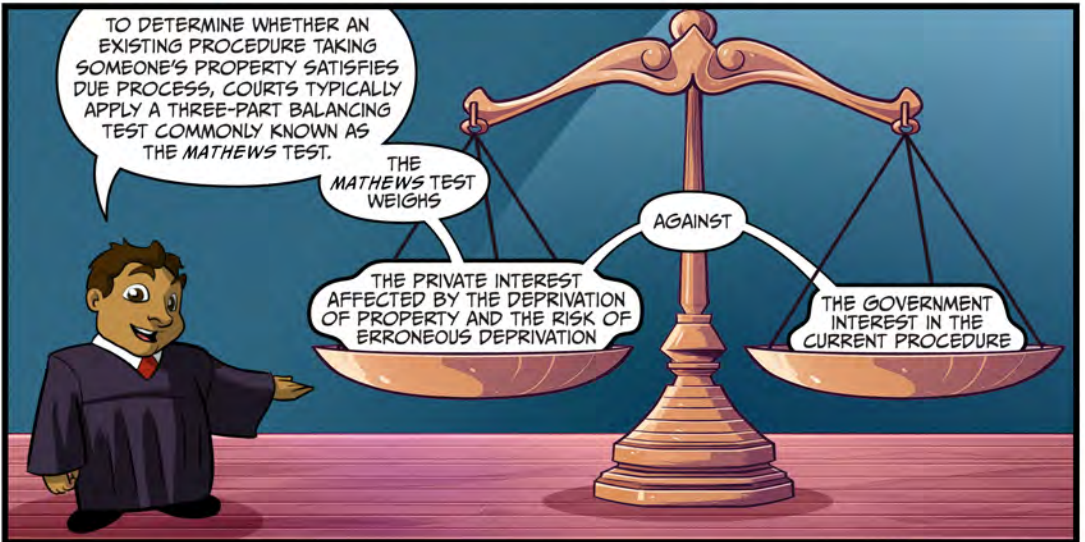
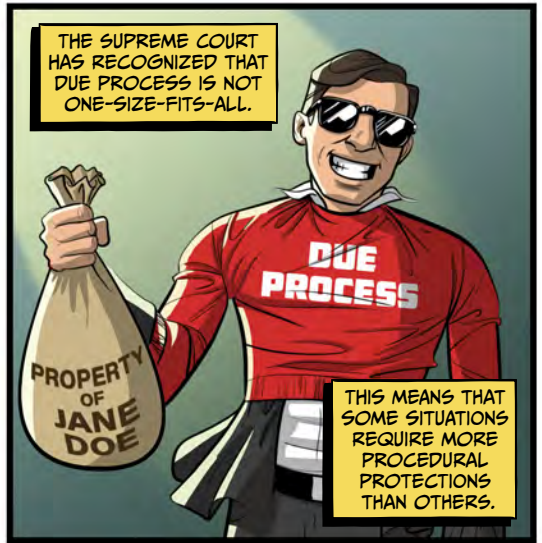
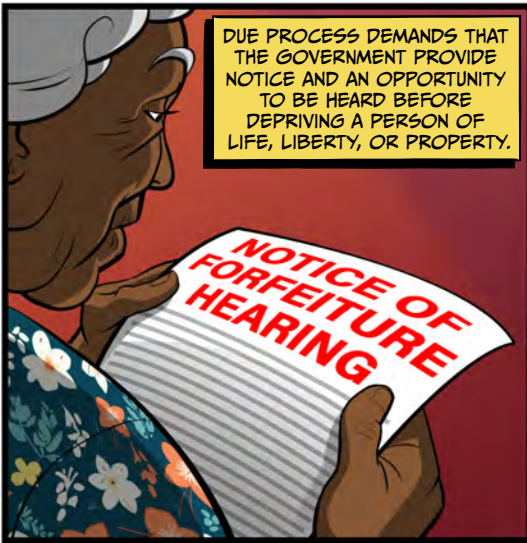
I KNOW
MY RIGHTS!

I'M
NOT ANSWERING
ANY QUESTIONS,
AND I WANT A
LAWYER!

AND I GET
A PUBLIC JURY
TRIAL IN THE STATE
AND DISTRICT WHERE
THE ALLEGED CRIME
HAPPENED!

SLAM

SIMILAR PROTECTIONS DO NOT EXIST IN CIVIL CASES.
INSTEAD, INDIVIDUALS RELY ON THE GENERAL REQUIREMENTS
OF DUE PROCESS AS THEIR SOLE MEANS OF PROTECTION
AGAINST ABUSIVE CIVIL FORFEITURE PRACTICES.



AFTER CULLEY'S AND SUTTON'S CARS WERE SEIZED, THE STATE CHOSE TO KEEP THEM UNTIL THE FINAL HEARING IN THEIR RESPECTIVE FORFEITURE CASES.

WHAT DO YOU MEAN YOU'RE GOING TO KEEP MY CAR HERE?

HOW AM I GOING TO GET TO WORK? I'LL LOSE MY JOB!

BUT I DIDN'T DO ANYTHING WRONG! HOW WILL I GET TO MY DOCTOR'S APPOINTMENTS?

CULLEY AND SUTTON EVENTUALLY WON THEIR FORFEITURE CASES AND THE STATE WAS ORDERED TO RETURN THEIR PROPERTY.

BUT THEY WERE STILL FORCED TO GO MORE THAN A YEAR WITHOUT THEIR CARS BECAUSE THE LAW DID NOT PROVIDE A POST-SEIZURE HEARING TO ENABLE THEM TO CHALLENGE THE STATE'S RETENTION OF THEIR PROPERTY.



HOPING TO CHANGE THINGS, THEY SUED THE STATE FOR VIOLATING THEIR DUE PROCESS RIGHTS, ARGUING THAT PROPERTY OWNERS ARE ENTITLED TO A PROMPT HEARING TO CHALLENGE THE STATE'S SEIZURE AND RETENTION OF THEIR VEHICLES.

THE STATE KEPT MY CAR FOR OVER A YEAR!

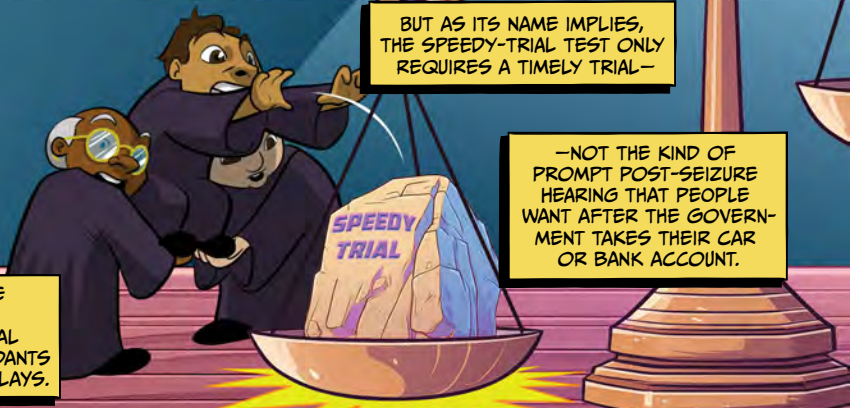
THEY KEPT MINE FOR NEARLY **TWO** YEARS!

HOWEVER, THE APPEALS COURT CHOSE NOT TO APPLY THE *MATHEWS* TEST TO ASSESS WHETHER THE STATE'S PROLONGED DETENTION OF MS. SUTTON'S AND MS. CULLEY'S CARS VIOLATED THEIR RIGHTS TO DUE PROCESS.

BUT AS ITS NAME IMPLIES, THE *SPEEDY-TRIAL* TEST ONLY REQUIRES A TIMELY TRIAL—

INSTEAD, IT APPLIED THE *SPEEDY-TRIAL* TEST, WHICH APPLIES IN CRIMINAL CASES TO PROTECT DEFENDANTS FROM EXCESSIVE TRIAL DELAYS.

—NOT THE KIND OF PROMPT POST-SEIZURE HEARING THAT PEOPLE WANT AFTER THE GOVERNMENT TAKES THEIR CAR OR BANK ACCOUNT.



ALTHOUGH THEY LOST AT THE COURT OF APPEALS, CULLEY AND SUTTON WERE NOT READY TO QUIT, SO THEY ASKED THE SUPREME COURT TO HEAR THEIR CASES.

THEY ARGUED THAT THE COURT OF APPEALS WAS WRONG TO APPLY THE SPEEDY-TRIAL TEST INSTEAD OF THE *MATHEWS* TEST—



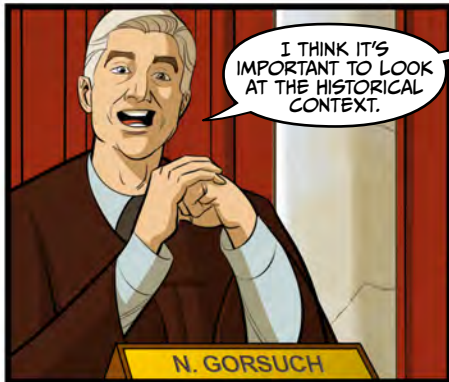
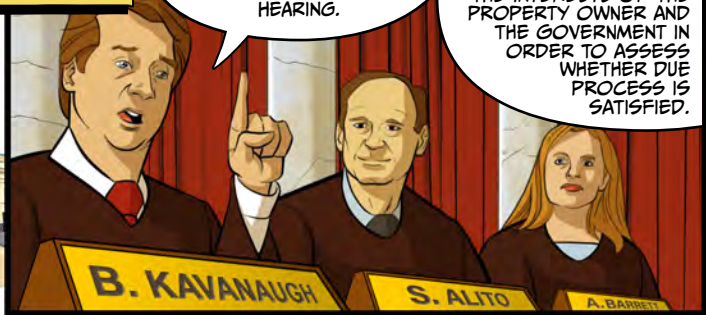
—AND THAT UNDER THE *MATHEWS* TEST, DUE PROCESS REQUIRES A PROMPT POST-SEIZURE HEARING.

THE SUPREME COURT AGREED TO HEAR THE CASE.

UNFORTUNATELY, THE MAJORITY DID NOT AGREE WITH CULLEY AND SUTTON.

IN CIVIL FORFEITURE CASES, DUE PROCESS REQUIRES A TIMELY FORFEITURE HEARING, BUT IT DOES NOT REQUIRE A SEPARATE PRELIMINARY HEARING.

IT DOESN'T MATTER WHICH TEST LOWER COURTS APPLY BECAUSE BOTH SEEK TO BALANCE THE INTERESTS OF THE PROPERTY OWNER AND THE GOVERNMENT IN ORDER TO ASSESS WHETHER DUE PROCESS IS SATISFIED.



I THINK IT'S IMPORTANT TO LOOK AT THE HISTORICAL CONTEXT.

IN THE PAST, CIVIL FORFEITURE WAS USED TO CONFISCATE ONLY CERTAIN TYPES OF PROPERTY—MOST COMMONLY, SHIPS FOLLOWING CUSTOMS VIOLATIONS.

SINCE YOU FAILED TO COMPLY WITH U.S. CUSTOMS LAW, WE'RE SEIZING YOUR SHIP SO YOU CAN'T ESCAPE TO ANOTHER COUNTRY.



TODAY'S CIVIL FORFEITURE REGIMES ARE FAR MORE WIDE-SWEEPING THAN HISTORICAL PRACTICES.

I CONCUR WITH THE MAJORITY BECAUSE I AGREE THAT DUE PROCESS REQUIRES ONLY A PROMPT FINAL HEARING, BUT I QUESTION WHETHER MODERN CIVIL FORFEITURE FITS SQUARELY WITH THE CONSTITUTION'S PROMISE OF DUE PROCESS.

WE WERE ASKED TO DECIDE WHICH TEST SHOULD BE APPLIED TO DUE PROCESS CHALLENGES IN CIVIL FORFEITURE CASES.

THE MAJORITY'S OPINION GOES WAY BEYOND THE QUESTION PRESENTED AND HAMSTRINGS LOWER COURTS FROM ADDRESSING MYRIAD ABUSES IN THE CIVIL FORFEITURE SYSTEM.



FOR THESE REASONS, I DISSENT.

THE COURT'S DECISION IN THIS CASE STRENGTHENED AN ALREADY POWERFUL TOOL FOR POLICE.



IT'S SO GREAT THAT WE CAN SEIZE THIS STUFF AND ENJOY IT FOR MONTHS—OR EVEN YEARS—BEFORE THE OWNER CAN GET IT BACK.

YOU MEAN IF THE OWNER GETS IT BACK!

NOW, UNLESS STATE LAW PROVIDES OTHERWISE, POLICE ARE ABLE TO KEEP SEIZED PROPERTY FOR LONG PERIODS OF TIME WITHOUT HAVING TO JUSTIFY THE PROLONGED DETENTION.



FOR MANY PEOPLE, THAT MEANS GOING WITHOUT CARS OR MONEY UNTIL THE COURT GETS AROUND TO HOLDING A FINAL HEARING.

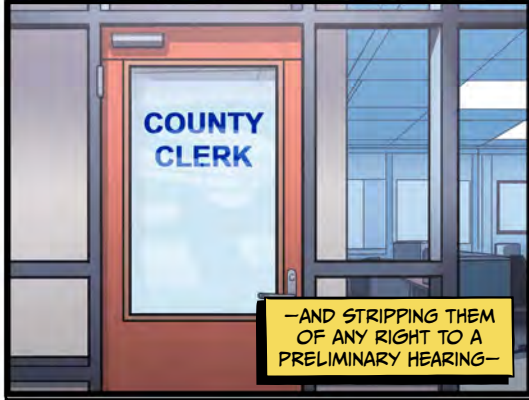
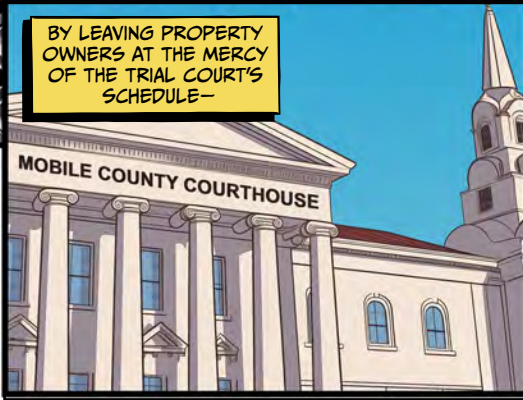
FIGHTING A CIVIL FOREFEITURE CASE IS ALREADY CHALLENGING.



SUTTON AND CULLEY WERE ABLE TO GET THEIR CARS BACK, BUT MOST PEOPLE ARE NOT SO LUCKY.



BY LEAVING PROPERTY OWNERS AT THE MERCY OF THE TRIAL COURT'S SCHEDULE—



—AND STRIPPING THEM OF ANY RIGHT TO A PRELIMINARY HEARING—

—THE SUPREME COURT'S DECISION MAKES THE PROCESS EVEN HARDER FOR PEOPLE FIGHTING TO WIN BACK THEIR PROPERTY.

