

In the Supreme Court of Nevada

CASE No. 90943

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**STATE OF NEVADA DEP'T OF PUBLIC SAFETY,
HIGHWAY PATROL DIVISION, et al.,**

Appellants,

v.

STEPHEN LARA,

Respondent.

District Court Case No. CV-21-01595
Second Judicial District Court, Washoe County
The Honorable Judge Connie Steinheimer

**BRIEF OF *AMICUS CURIAE* THE CATO INSTITUTE
IN SUPPORT OF
RESPONDENT STEPHEN LARA'S ANSWERING BRIEF AND
AFFIRMANCE**

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NRAP 26.1 DISCLOSURES

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a) and must be disclosed. These representations are made in order so that the judges of this court may evaluate possible disqualification or recusal. Amicus Curiae, the Cato Institute (“Cato”) is a nonprofit public policy research foundation without any controlling shareholders. Cato is represented by McDonald Carano LLP and the partners and associates employed therein in this proceeding before this Court.

Pursuant to NRAP 29(c)(5), Cato states that no party or party’s counsel has authored this brief in whole or in part, and that no person—other than Cato and its counsel—has contributed money or other consideration intended to fund preparing or submitting this brief.

This 10th day of April, 2026.

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STATEMENT OF INTEREST OF *AMICUS CURIAE*¹

The Cato Institute is a nonpartisan public policy research foundation founded in 1977 and dedicated to advancing the principles of individual liberty, free markets, and limited government. Cato's Project on Criminal Justice was founded in 1999 and focuses in particular on the scope of substantive criminal liability, the proper and effective role of police in their communities, the protection of constitutional and statutory safeguards for criminal suspects and defendants, citizen participation in the criminal justice system, and accountability for law enforcement officers.

Cato scholars have published extensive research on the criminal justice system and asset forfeiture. Cato has also filed many *amicus curiae* briefs regarding the continued expansion of prosecutorial power and abuse by law enforcement. This case interests Cato because it concerns the problematic incentives facing law enforcement, undermines adherence to the rule of law, and threatens federalism.

¹ NRAP 29(c)(5) Statement: No counsel for either party authored this brief in any part. No person or entity other than *amicus* made a monetary contribution to its preparation or submission. All parties have consented to the filing of this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

This case asks whether Nevada law allows for federal “adoptions” of state asset forfeiture proceedings through equitable sharing. Holding that it does would empower a predatory system and undermine Nevada’s sovereignty.

Asset forfeiture is a claim brought directly against property as if it “did something wrong.” Lisa Knepper et al., *Policing for Profit: The Abuse of Civil Asset Forfeiture*, INST. FOR JUST., at 9 (4th ed. 2026) [hereinafter “Knepper et al. 2026”].² Federal prosecutors can “adopt” a state asset forfeiture action. *Id.* at 10. Equitable sharing gets its name because the state agency that refers a case for adoption receives up to 80% of the ultimate proceeds. *Id.* at 10, 62. Critically for this appeal, equitable sharing also exempts an asset forfeiture action from state-enacted safeguards for property owners.

Respondent Stephen Lara’s encounter with equitable sharing began on February 19, 2021, when a Nevada Highway Patrol (NHP) trooper pulled him over and interrogated him about his travel plans. RAB

² Available at <https://tinyurl.com/y48dwccs>.

10–11. Stephen, a retired Marine sergeant, volunteered he was transporting \$86,900 in life savings that he hoped to use to buy a home for himself and his daughters. *Id.* at 10–11, 13, 15; JA058. Though the trooper and another who responded after concluded that Stephen’s story “lines up,” they called a federal narcotics agent, then decided it was “too easy” to seek forfeiture of the cash using equitable sharing, specifically mentioning “an adoption.” RAB 12–13; JA029.

Stephen challenged the attempted asset forfeiture that followed. AOB 10, 13; JA059–60. The district court ultimately enjoined NHP’s participation in equitable sharing, holding: “While federal law clearly provides Nevada the option to participate in the federal equitable sharing program, Nevada’s Legislature has yet to accept this offer. Without such an acceptance, NHP is unable to participate in this program—as doing so effectively requires NHP to eschew” state asset forfeiture law. JA403. NHP appealed and the case is now before this Court. *See* Notice of Appeal at 4.

This Court should affirm. Equitable sharing has corrupted law enforcement into a revenue stream and left police agencies “addicted to drug money.” Stephanie Holmes Didwania, *Asset Forfeiture and*

Inequality, 77 STAN. L. REV. 159, 162 (2025); John Burnett, *Seized Drug Assets Pad Police Budgets*, NPR (June 16, 2008, 12:01 AM).³ Further, it offends against federalism by denying states the ability to govern their own officers. NHP lists one of its goals as “Maximize Service to the Public”⁴—and equitable sharing stands in the way.

ARGUMENT

I. ASSET FORFEITURE INVITES ABUSE AND EQUITABLE SHARING CIRCUMVENTS STATE PROTECTIONS.

Asset forfeiture “has in recent decades become widespread and highly profitable,” causing “egregious and well-chronicled abuses.” *Leonard v. Texas*, 580 U.S. 1178, 1179–80 (2017) (Thomas, J., respecting denial of certiorari). Equitable sharing keeps states from stopping these.

A. Asset forfeiture is pervasive and targeted.

Between 1986 and 2014, the amount of federal asset forfeiture revenue skyrocketed by 4,667%. Dick M. Carpenter II et al., *Policing for Profit: The Abuse of Civil Asset Forfeiture*, INST. FOR JUST., at 5 (2d ed.

³ Available at <https://tinyurl.com/2rc67efu>.

⁴ *Mission, Vision, Philosophy and Goals*, NEV. STATE POLICE HWY. PATROL (2021), <https://tinyurl.com/4x7bu8vu>.

2015).⁵ That amount reached \$4.5 billion in 2023. Knepper et al. 2026, *supra*, at 6. The Department of Justice secures forfeiture of about 40,000 assets annually. Didwania, *supra*, at 164.

Asset forfeiture, together with fines and fees, impairs the financial wellbeing of millions of Americans. As of 2017, ten million people owed more than \$50 billion in criminal debt. Karin D. Martin et al., *Shackled to Debt: Criminal Justice Financial Obligations and the Barriers to Re-Entry They Create*, U.S. DEP'T OF JUST., NAT'L INST. OF JUST., at 5 (2017).⁶ These obligations “contribute to poverty entrapment by further increasing the debt burden for these individuals, making it difficult to make ends meet and blocking opportunities for social and economic stability and mobility.” *Id.* at 14.

The burdens do not fall on all communities equally. The more non-white people live in a district, the more cash federal prosecutors there seek to forfeit. Didwania, *supra*, at 219; *see also* Candace Caruthers, Note, *When the Cops Become the Robbers: The Impact of Asset Forfeiture on Blacks and How to Curtail Asset Forfeiture Abuses*, 62 HOW. L.J. 277,

⁵ Available at <https://tinyurl.com/2tx45nxh>.

⁶ Available at <https://tinyurl.com/4m476v52>.

290–91 (2018); Mica Doctoroff et al., *Civil Asset Forfeiture: Profiting from California’s Most Vulnerable*, ACLU, at 3 (2016) (“Half of DEA seizures from California involved people with Latino surnames.”);⁷ C.J. Ciaramella, *Poor Neighborhoods Hit Hardest by Asset Forfeiture in Chicago, Data Shows*, REASON (June 13, 2017, 8:00 AM).⁸ In Nevada, as elsewhere, “seizures were concentrated in areas where most residents are people of color and poverty is high.” USCCR, *The U.S. Commission on Civil Rights Disapproves of the Department of Justice’s Civil Asset Forfeiture Policy 2* (2017) (discussing the Silver State specifically).⁹ That is why the median amount of a cash forfeiture in Nevada is just \$1,030. Knepper et al. 2026, *supra*, at 137.

Another reason these populations are disproportionately targeted: contesting asset forfeiture is hard, often prohibitively so. One study found: “Those without a college degree were 82% less likely to get their property back.” Jennifer McDonald & Dick M. Carpenter II, *Frustrating*,

⁷ Available at <https://tinyurl.com/4etv5hhz>.

⁸ Available at <https://tinyurl.com/2asfbm7c>.

⁹ Available at <https://tinyurl.com/yyxxnx54>.

Corrupt, Unfair: Civil Forfeiture in the Words of Its Victims, INST. FOR JUST., at 3 (2021).¹⁰ Asset forfeiture rages widely yet selectively.

B. Asset forfeiture creates perverse incentives.

Incentives matter. Congress has incentivized the overuse and misuse of asset forfeiture by letting those agencies profit directly from it. See *United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 56 n.2 (1993) (quoting a memo from the U.S. attorney general: “We must significantly increase production to reach our budget target. . . . Failure to achieve the \$470 million projection would expose [DOJ’s] forfeiture program to criticism and undermine confidence in our budget projections. Every effort must be made to increase forfeiture income . . .”).

Public-endangering and liberty-threatening conflicts of interest follow. Beth A. Colgan, *Fines, Fees, and Forfeitures*, 18 CRIMINOLOGY CRIM. JUST. L. & SOC’Y 22, 23 (2017). Money motives give agencies “a strong financial incentive” to divert resources to aggressive drug policing, at the expense of “investigating murders, rapes, and robberies.” RADLEY BALKO, *RISE OF THE WARRIOR COP: THE MILITARIZATION OF AMERICA’S*

¹⁰ Available at <https://tinyurl.com/3euymmnds>.

POLICE FORCES 153, 157 (2014). “A 2010 survey of 800 police departments found that nearly 40% said that civil forfeiture proceeds were a ‘necessary budget supplement,’”¹¹ while agencies “seize more when budgets are tight.” Lisa Knepper et al., *Policing for Profit: The Abuse of Civil Asset Forfeiture*, INST. FOR JUST., at 34 (3d ed. 2020) [hereinafter “Knepper et al. 2020”].¹²

In one case, law enforcement officers pressured a prosecutor to let a drug courier plead out to no jail time—with no prosecutorial interviews about his trafficking operation—because he would forfeit a car, cash, and contraband, as well as make “a generous ‘contribution.’” Anthony Finch, *Why Cops Should Be Chasing the Bad Guys, Not the Big Bucks: A Former Prosecutor Explains How Civil Forfeiture Undermines America’s Criminal Justice System.*, COMPETITIVE ENTER. INST., at 6–7 (2022).¹³ In another instance, police sought forfeiture of \$17,550 they found after stopping a barbecue restaurant owner for a minor traffic infraction; the

¹¹ Emma Coleman, *Civil Asset Forfeiture Under New Scrutiny Amid Calls for Police Reform*, ROUTE FIFTY (July 14, 2020), <https://tinyurl.com/6b7s3eff>.

¹² Available at <https://tinyurl.com/b7pb99tb>.

¹³ Available at <https://tinyurl.com/2bbcdsww>.

owner eventually prevailed, but only after losing his business. Michael Sallah et al., *Stop and Seize*, WASH. POST (Sept. 6, 2014).¹⁴ The pressure to pad agency budgets distorts policing.

It would be bad enough were these proceeds directed toward law enforcement, but they are sometimes spent frivolously and even illegally. Officials have used forfeiture funds to pay for tequila, rum, kegs, a margarita machine, football tickets—even marijuana and prostitutes. Darpana M. Sheth, *Criminal Law & Procedure: Policing for Profit: The Abuse of Forfeiture Laws*, 14 ENGAGE 24, 26 (2013).¹⁵ One district attorney’s office used \$3.25 million in forfeiture proceeds to pay for employee bonuses.¹⁶

Asset forfeiture amounts to “a money-making scheme that preys on those least able to fight it.” *Ingram v. Wayne Cnty.*, 81 F.4th 603, 623 (6th Cir. 2023) (Thapar, J., concurring), *overruled by* *Culley v. Marshall*, 601

¹⁴ Available at <https://tinyurl.com/373f3335>.

¹⁵ Available at <https://tinyurl.com/2vbt7bm>.

¹⁶ C.J. Ciaramella, *New York Prosecutors Gave Themselves \$3.2 Million in Bonuses with Asset Forfeiture Funds*, REASON (Nov. 28, 2017, 1:48 PM), <https://tinyurl.com/53t2e9w5>.

U.S. 377 (2024). It sets the interests of law enforcement against those of the communities it is supposed to serve.

C. Equitable sharing enables officials to evade state protections.

In states that try to limit abuses, like Nevada, equitable sharing affords officials an escape hatch: they can refer a case for federal adoption while still receiving up to 80% of whatever assets are ultimately forfeited. Didwania, *supra*, at 166. State laws are not permitted to reduce the amount the referring agency receives (and thereby dampen the perverse incentives that drive asset forfeiture abuse). Jefferson E. Holcomb, et al., *Civil Asset Forfeiture Laws and Equitable Sharing Activity by the Police*, 17 CRIMINOLOGY & PUB. POL'Y 101, 104 (2018). For instance, Nevada “limits agencies’ financial incentive by requiring them to send 70% of forfeiture funds above \$100,000 remaining in their accounts at fiscal year end to the state’s school fund.” Knepper et al. 2026, *supra*, at 58. But equitable sharing is an end-run around this requirement.

The troopers who stopped Stephen knew this: one specifically mentioned “adoption” during the encounter. AOB at 8. So do Nevada prosecutors. From 2000 to 2023, equitable sharing proceeds contributed

nearly three-quarters of the State’s asset forfeiture revenue—over \$80 million. *Id.* at 136.

When state laws offer “property owners more protections,” prosecutors turn to equitable sharing. Knepper et al. 2020, *supra*, at 46. The same result transpires when state laws make “forfeiture less lucrative.” *Id.* State agencies turn to equitable sharing knowing that it surmounts state safeguards. Equitable sharing, then, undermines the sovereignty of states to police their own officials.

II. EQUITABLE SHARING VIOLATES FEDERALISM.

Federalism “preserves the integrity, dignity, and residual sovereignty of the States,” *Bond v. United States*, 564 U.S. 211, 221 (2011)—in order to “secure[] to citizens the liberties that derive from the diffusion of sovereign power.” *New York v. United States*, 505 U.S. 144, 181 (1992) (citation omitted). This “healthy balance of power” acts as “a check on abuses of government power,” *Gregory v. Ashcroft*, 501 U.S. 452, 458 (1991), and ensures “the protection of ‘our fundamental liberties.’” *Atascadero State Hosp. v. Scanlon*, 473 U.S. 234, 242 (1985) (quoting *Garcia v. San Antonio Metro. Transit Auth.*, 469 U.S. 528, 572 (1985) (Powell, J., dissenting)); *see also Printz v. United States*, 521 U.S. 898,

921 (1997) (“This separation of the two spheres is one of the Constitution’s structural protections of liberty.”). Without federalism, “individual liberty would suffer.” *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 577 (2012).

One key aspect of federalism is states’ sovereign control over their own officers. *See Printz*, 521 U.S. at 922–23. The ability to supervise these is an essential attribute of sovereignty, intimately related to government accountability. *See id.* It is also indispensable to preserving states “as independent and autonomous political entities.” *Id.* at 928. “As the adage goes, ‘personnel is policy,’” *Union Gospel Mission of Yakima Wash. v. Brown*, 162 F.4th 1190, 1204 (9th Cir. 2026)—and the inability to determine what state officials can, and cannot, do directly undermines state sovereignty.

The ruling below reflects the principle that “state authorities cannot avoid their own state laws” by colluding with federal officials. *DeSantis v. State*, 384 Md. 656, 660 (2005) (holding that equitable sharing does not authorize actions independently of state law). In the district court’s words:

[A] Nevada public agency is not allowed to run afoul of the obligation or responsibilities imposed upon it by law just because it has entered into an interlocal agreement with a foreign agency. A Nevada public agency is not allowed to simply circumvent the dictates imposed upon it by the NRS when it is acting within the confines of an interlocal agreement.

JA402.

And to be sure, the NRS impose restrictions incompatible with equitable sharing:

- All contested proceedings are held in district court, rather than being resolvable nonjudicially. *Contrast* NRS 179.1171(3) *with* 18 U.S.C. § 983(a)(1)(A).

- The government must prove that property is subject to forfeiture by clear and convincing evidence, rather than a preponderance of the evidence. *Contrast* NRS 179.1173(4) *with* 18 U.S.C. § 983(c)(1).

- Forfeiture cannot occur unless there is without “knowledge, consent or willful blindness” on the part of the owner, rather than claimants having to prove their innocence by a preponderance of the evidence. NRS 179.1164(2); *contrast with* 18 U.S.C. § 983(d)(1).

These are strictures of Nevada law. State sovereignty and respect for Nevadans' liberty require holding Nevada officials answerable to them rather than letting them use the federal workaround.

CONCLUSION

Nevada officers, prosecutors, and lawmakers all know what mindset drives federal asset forfeiture: "Forfeit, forfeit, forfeit. Get money, get money, get money." Mary M. Cheh, *Can Something This Easy, Quick, and Profitable Also Be Fair? Runaway Civil Forfeiture Stumbles on the Constitution*, 39 N.Y.L.S. L. REV. 1, 4 (1994) (quoting Michael F. Zeldin—former director of the Department of Justice's Asset Forfeiture Office). As state lawmakers limit this, officers and prosecutors have turned to equitable sharing—at the price of Nevada's sovereignty and her people's liberty. The district court's judgment enjoining this evasion should be affirmed.

This 10th day of April, 2026.

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CERTIFICATE OF COMPLIANCE

I hereby certify that this Brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type-style requirements of NRAP 32(a)(6) because this Brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point font, Century New Schoolbook style. I further certify that this Brief complies with the type-volume limitation as the amicus brief is 6,433 words and NRAP 29(d) provides an amicus brief can be no more than one-half the maximum length (7,000 words) authorized by these Rules which Cato's amicus brief supports Mr. Lara's answering brief as a respondent, which NRAP 32(a)(7)(A)(ii)'s maximum length for "an answering brief if it contains no more than 14,000 words."

Pursuant to NRAP 28.2, I hereby certify that I have read this brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e), which requires every assertion about matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found.

I understand that I may be subject to sanctions if this brief does not conform to the requirements of the Nevada Rules of Appellate Procedure.

This 10th day of April, 2026.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on this 10th day of April 2026, a copy of the foregoing **BRIEF OF *AMICUS CURIAE* OF THE CATO INSTITUTE IN SUPPORT OF RESPONDENT STEPHEN LARA'S ANSWERING BRIEF** was electronically filed with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (E-Flex). Participants in the case who are registered with E-Flex as users will be served by the E-Flex system.

/s/ Kimberly Kirn
An employee of McDonald Carano LLP