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From: Michael DiLauro <madpd2001@yahoo.com>
Sent: Wednesday, February 26, 2025 1:27 PM
To: House Judiciary Committee
Cc: Rep. Place, David J.
Subject: 2025--H 5363 (Forfeiture Reform)
Attachments: State v Grullon 783 A2d 928 RI 2001.pdf

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To Whom It May Concern:

Regarding the legislation referenced here that was heard last night by the House Judiciary Committee, please find attached the decision of the RI Supreme Court in *State v. Grullon*, 783 A.2d 928 (RI 2001). I was trial counsel for Mr. Grullon and have always felt that it amply demonstrated the unfairness of our current statutory scheme regarding forfeiture, especially when it comes to the indigent. I mentioned the decision during my oral testimony last night and promised to provide the committee with a copy. I believe that the legislation under consideration, if enacted into law, would prevent future injustices like this from happening.

In *Grullon* the defendant was arrested for and charged with unlawful delivery of a controlled substance. At the time of Mr. Grullon's arrest he was in possession of \$2183.00 that was to be used to move his family from New York City to Providence. Shortly after his arrest and well prior to trial the state initiated successful forfeiture proceedings. At the time Mr. Grullon was unrepresented and not in a position to obtain the services of private counsel or the public defender (indeed, it can be argued that he was not entitled to the benefit of appointed counsel because forfeiture proceedings are civil and therefore outside of the statutory responsibilities of the public defender). After a jury waived trial in which Mr. Grullon was found "not guilty" he sought to undo the forfeiture. Both the Superior and Supreme Courts relied on technical grounds in denying his request holding that 1) it was not within the province of the court to do so and 2) the forfeiture did not violate due process and the Eighth Amendment's protection against the imposition of excessive fines. Both courts reasoned that forfeiture is a civil proceeding factually related, but procedurally unrelated to the criminal case.

Again, I believe that the legislation under consideration, if enacted into law, would prevent future injustices like this from happening because the conviction of the defendant in a criminal trial would be required for the forfeiture to take place.

Respectfully Submitted,

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