

Court reverses Bartow property seizures

BY NEIL B. MCGAHEE

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A Bartow County businessman whose assets were seized after he was charged with illegal gambling scored a partial victory in Bartow Superior Court Wednesday.

Mohammed Ajmal and his wife, Asia, were arrested Aug. 4 and charged with illegal gambling after an undercover agent with the Georgia Bureau of Investigation played the lottery machines at the Smart Mart convenience store at 1141 Tennessee St. and redeemed his winnings for cash, a violation of Georgia law, which requires winners to receive store merchandise or credit instead of cash.

But Ajmal doesn't own the store, defense attorney Don Evans argued to Judge David Smith. He leases the property to the store owner and has no operational control over the store.

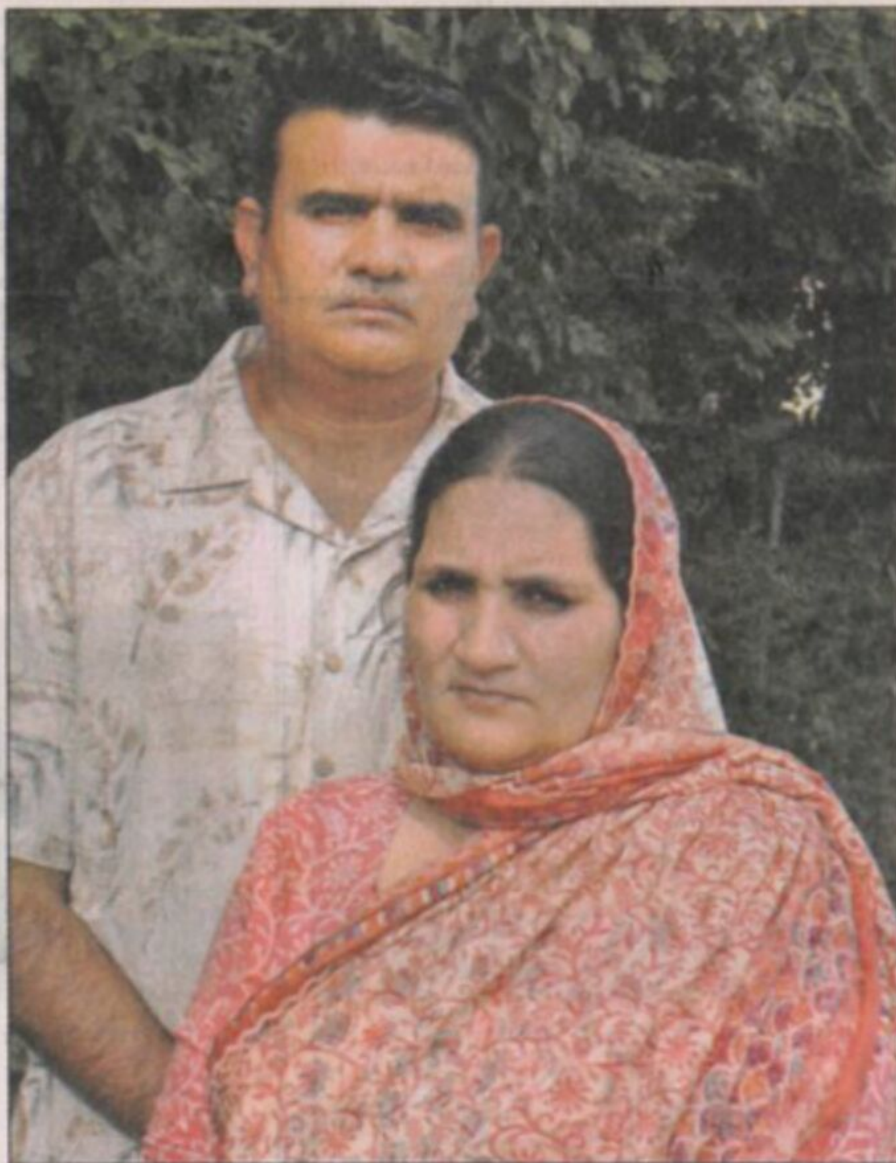
"He is not the store owner," Evans said. "He is the landlord. He leases the property and he helped the owner with the start up and handled the banking relationship, which included the leasing of the lottery machines, but he has no operational involvement."

That is significant Evans said, because the Bartow County District Attorney's Office hired Michael Lambrose, an Atlanta attorney and a specialist in the Racketeer Influenced and Corrupt Organizations Act, or RICO, to act as a special investigator pushing for a RICO charge.

And pushing for a RICO charge is relatively easy to do.

"In order to enforce the RICO Act, you must have a series of predicate acts that create a conspiracy to violate state laws," Evans explained. "Those acts must be felonies and you must have two of them. So what they do is get someone cashing a ticket, a misdemeanor, which they then classify as a felony, and use that to gain access to something like sales tax records, find certain irregularities and say it's a violation of tax law.

"They usually come to a store with no



Mohammed Ajmal and his wife, Asia, were arrested after GBI agents raided a convenience store owned by someone else.

prior basis, then they dramatically over-interpret and misuse the reach of the civil forfeiture statutes and say it's a violation of state tax law and then they have two felonies. Meanwhile, the store owner loses all of his earthly possessions."

Evans said because Ajmal's name was

on the lottery lease, the GBI executed a search warrant.

Asia and their four children were home when the raid happened.

"They burst in and started taking things of value," Ajmal said. "They took the cash I had brought home from my business —

about \$50,000 — two cars, gold bars, all of our appliances, the family money, unopened safes, the children's iPhones and computers. They even took Asia's wedding ring."

All of Ajmal's bank accounts were frozen as well.

Evans filed a demand for determination of probable cause to see if his clients could really be stripped of their possessions.

He contended that the store had been owned by two investment groups and that the authorities had no right to seize Ajmal's possessions or bank accounts.

A projected two-hour hearing turned into six as Evans and attorney Alan Begner chipped away at the prosecution's contention that they were right to seize all assets on the theory that it could be evidence.

"How can a child's jewelry be considered evidence," Evans asked one of the agents involved in the raid. "How is a child's cell phone evidence?"

Lambrose said everything was evidence until proven otherwise and maintained that nothing should be returned.

As the hearing slipped into the sixth hour, Judge Smith stopped the proceedings and invited the attorneys to a conference in his chambers.

When they returned, Smith beaming from ear-to-ear, announced a settlement had been reached.

Begner and Lambrose jointly announced that the evidence related to the investment companies would be held as evidence, but all personal property including cash, cars, gold bars, all appliances, the children's iPhones and computers and Asia's wedding ring would be returned to the Ajmals.

The Ajmals must still stand trial in criminal court for several misdemeanors, but that couldn't deflate Ajmal's happiness.

"I am an honest man," he crowed. "I came to America 17 years ago from Pakistan and I have worked hard seven days a week every year — no vacations, no days off — and for this to happen is horrible, but I am happy to get back what I hope to leave for my children when I die."

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