

**Supreme Court, in unanimous ruling, moves to limit state and local governments’ power to impose fines and seize property**

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The Supreme Court ruled unanimously Wednesday that the Constitution’s prohibition on excessive fines applies to state and local governments, limiting their abilities to impose fines and seize property.

Justice Ruth Bader Ginsburg, on just her second day back on the bench after undergoing cancer surgery in December, announced the decision for the court, saying that the 8th Amendment’s Excessive Fines Clause protects against government retribution.

“*For good reason, the protection against excessive fines has been a constant shield throughout Anglo-American history: Exorbitant tolls undermine other constitutional liberties,” Ginsburg wrote. “Excessive fines can be used, for example, to retaliate against or chill the speech of political enemies . . . Even absent a political motive, fines may be employed in a measure out of accord with the penal goals of retribution and deterrence*.”

The court ruled in favor of **Tyson Timbs of Marion, Ind**., who had his $42,000 Land Rover seized after he was arrested for selling a couple hundred dollars’ worth of heroin.

He drew wide support from civil liberties organizations who want to limit civil forfeitures, which they say empower localities and law enforcement to seize property of someone suspected of a crime as a revenue stream.

Some justices, too, had become worried about the state and local efforts. Justice Clarence Thomas wrote in a recent opinion that civil forfeitures have “***become widespread and highly profitable***.”

“***This system - where police can seize property with limited judicial oversight and retain it for their own use - has led to egregious and well-chronicled abuses***,” Thomas wrote, referring to reporting by The Washington Post and the New Yorker.

At oral argument, Timbs’s lawyer said the case was a simple matter of “constitutional housekeeping.”

The Constitution’s Bill of Rights protects against actions of the federal government. But the Supreme Court over time has applied it to state and local governments under the due-process clause of the 14th Amendment. In 2010, for instance, the court held that the Second Amendment applied to state and local government laws on gun control.

**The Eighth Amendment states**: “*Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted*.” Two of those commands - regarding bail and cruel and unusual punishments - have been deemed to apply to state and local governments. But until now, the ban on excessive fines had not been.

And the Indiana Supreme Court noted that when overturning a lower court’s ruling that the actions taken against Timbs were excessive.

Ginsburg’s opinion makes clear that the clause applies, and that it is “*incorporated*” under the 14th Amendment’s Due Process Clause.

Justices Thomas and Neil M. Gorsuch agreed with the outcome, but said *they would have relied on a different part of the 14th Amendment*.

The case is **Timbs v. Indiana**.

**Victory: Unanimous Supreme Court Limits State Power to Levy Fines, Seize Property, Abuse Asset Forfeiture Laws Under Eighth Amendment**

Link: <https://www.rutherford.org/publications_resources/on_the_front_lines/victory_unanimous_supreme_court_limits_state_power_to_levy_fines_seize_property_abuse_asset_forfeiture_laws_under_eighth_amendment?fbclid=IwAR0F1sLYchaORNkQ34HYa-nQgbyYwbFLEKuBVf5nLwaQxNjUgo5nN4W56OA>

WASHINGTON, DC — In a unanimous ruling that is expected to curb attempts by local and state governments to increase their revenue by seizing private property using excessive, arbitrary asset forfeiture laws, a unanimous U.S. Supreme Court has ruled in Timbs v. State of Indiana that state governments must abide by the Eighth Amendment’s prohibition on the imposition of “excessive fines” for criminal offenses.

Attorneys for The Rutherford Institute had filed an amicus brief in Timbs, challenging the power of states to engage in abusive “policing for profit” tactics and asking that SCOTUS overturn a ruling by the Indiana Supreme Court, which found that the Eighth Amendment did not prohibit the state from seizing a vehicle worth $42,000 as a penalty for selling four grams of heroin. Lower courts had found the seizure to be “grossly disproportionate” to the offense. Justice Ruth Bader Ginsburg wrote the opinion for the Court.

Attorneys D. Alicia Hickok, Mark Taticchi, S. Vance Wittie, and Matthew C. Sapp of Drinker, Biddle & Reath LLP assisted the Institute in presenting the arguments in Timbs.

“Let’s not mince words: civil asset forfeiture laws give police the green light to rob, pilfer, steal, thieve, swipe, purloin, filch and liberate American taxpayers of even more of their hard-earned valuables (especially if it happens to be significant amounts of cash) using any means, fair or foul,” said constitutional attorney John W. Whitehead, president of The Rutherford Institute and author of [Battlefield America: The War on the American People](https://www.amazon.com/Battlefield-America-War-American-People/dp/1590793099). “Hopefully, this ruling will remove the profit incentives associated with asset forfeiture schemes that allow state governments and police to pad their pockets by engaging in what has become a modern-day form of highway robbery.”

In January 2013, Tyson Timbs used $42,000 of life insurance proceeds he received after his father’s death to purchase a Land Rover sport utility vehicle (SUV). Timbs, who had just moved to Indiana to help his aunt rebuild her life, was also having life difficulties at the time, having become addicted to an opioid pain medication he was prescribed for a painful foot injury. Timbs’ addiction escalated to such a point that he went from abusing his opioid prescription to using and then selling heroin to fund his addiction. Eventually, a man who worked as a confidential informant for law enforcement connected Timbs with undercover police officers posing as drug buyers. On two occasions, Timbs sold the police a total of four grams of heroin for $385. He was arrested while driving to meet the police for a third sale.

Timbs pleaded guilty to one count of selling a controlled substance and was sentenced to 6 years in jail, but was released for home detention and probation. The state also brought a separate lawsuit seeking forfeiture of Timbs’ SUV under a state law allowing the seizure of property used to facilitate a criminal offense. A trial court denied the state’s forfeiture claim after finding that Timbs had purchased the SUV legally, not with crime-tainted funds, and that that forfeiture would be “grossly disproportional to the gravity of [Timbs’] offense,” thereby violating the Eighth Amendment’s excessive fines clause. This decision was initially affirmed on appeal, but was thereafter reversed by the Indiana Supreme Court, which ruled that the U.S. Supreme Court has never held that the Eighth Amendment’s excessive fines clause applies to the states.

In its amicus brief, The Rutherford Institute argued that the excessive fines clause does limit the power of states. Moreover, Institute attorneys warned that states and municipalities face a strong temptation to use fines, civil penalties, and asset forfeitures to bridge their fiscal shortfalls, and the Eighth Amendment is needed to prevent abuse of this power.