Home > U.S. Supreme Court case from Indiana challenges states’ use of asset forfeitures, criminal fines

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Mitch Arvidson [1]

In November, the U.S. Supreme Court heard arguments in a case that could dramatically limit states’ and localities’ ability to levy criminal fines and asset forfeitures. The central question in *Tyson Timbs and a 2012 Land Rover LR2 v. State of Indiana* [2] is whether the Eighth Amendment’s ban on excessive fines applies to states and localities.

The case started in 2013, when Timbs pleaded guilty to selling about $225 worth of heroin to undercover officers. Law enforcement in Indiana seized his vehicle, citing the state's civil forfeiture laws, which allow an individual's property to be seized (the vehicle in this case) if it were used to commit a crime.

Timbs disputed the state’s right to seize his vehicle because the value of the car, $42,000, was about four times the maximum allowable fine for the crime he committed. The trial court and a state appeals court sided with Timbs, citing the Eighth Amendment’s excessive-fines clause.

The Indiana Supreme Court, however, disagreed, noting that the U.S. Supreme Court has never ruled on whether this clause applies to states.

Other parts of the Bill of Rights have been "selectively incorporated" through past Supreme Court decisions. But the brief filed by Timbs (as well as *amicus* briefs filed by his supporters) seem to argue for a full incorporation of the entire Bill of Rights.

While the court is months away from announcing opinions, *The New York Times* [3] and other observers believed it was clear during oral arguments how the justices would rule: The excessive-fines clause should apply to the states, but the *Timbs* case should not be used to fully incorporate the Bill of Rights.

Additionally, it does not appear that the justices will rule on whether the vehicle’s forfeiture in the Indiana case, or similar fines, violate the excessive-fines clause.

“The most problematic aspect of this litigation … is that it will consume enormous amounts of time and resources in the lower courts, as state and local governments are required to litigate, case by case, in order to sort out what kinds of forfeitures are permitted and what kinds are not,” says professor Lawrence Rosenthal of Chapman University, who wrote an *amicus* brief in the *Timbs* case on behalf of the National Association of Counties and other local-government groups.

The court’s decision may prompt further discussion and/or legislation at the state level. According to the *Institute of Justice* [4], most Midwestern states have altered their civil forfeiture laws since 2014 (see map). The statutory changes tracked by the institute include:

1) abolishing civil forfeiture: Nebraska;
2) requiring a criminal conviction in most or all forfeiture cases: Iowa, Minnesota, Ohio and Wisconsin;
3) requiring the government to bear the burden of proof for innocent-owner claims: Illinois, Iowa and Wisconsin; and
4) instituting new reporting requirements for seizure and forfeiture activity: Illinois, Indiana, Iowa, Kansas and Michigan.

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