In a unanimous decision in *Timbs v. Indiana* the Supreme Court held that the Eighth Amendment’s Excessive Fines Clause is “incorporated” or applicable to the states and local governments.

The State and Local Legal Center (SLLC) *amicus brief* argued for the opposite result. In the alternative, the brief argued that the forfeiture in this case isn’t unconstitutionally excessive. The Supreme Court didn’t reach the latter question. This case will make it possible for criminal defendants in all 50 states to challenge forfeitures as excessive under the federal constitution.

Indiana sought to forfeit Tyson Timbs’ Land Rover which he used to transport heroin. The trial court concluded the forfeiture was unconstitutional under the Eighth Amendment’s Excessive Fines Clause because the value of the vehicle well exceeded the maximum statutory fine for the felony Timbs plead guilty to. The Indiana Supreme Court held the Excessive Fines Clause doesn’t apply to the states.

In an opinion written by Justice Ginsburg the Supreme Court disagreed holding that Excessive Fines Clause is incorporated by the Due Process Clause of the Fourteenth Amendment. It is “fundamental to our scheme of ordered liberty” and “deeply rooted in the Nation’s history and tradition.”

When the Bill of Rights was ratified in 1791 it only applied to the federal government. Following the adoption of the Fourteenth Amendment the Court has held that its Due Process Clause incorporates most of the Bill of Rights, making them applicable to the states and local governments.

According to the Court, the Excessive Fines Clause is “fundamental to our scheme of ordered liberty” and “deeply rooted in the Nation’s history and tradition” because it traces its “venerable lineage” back to at least the Magna Carta in 1215, was reaffirmed in the English Bill of Rights in 1689, and adopted almost verbatim from there in the Eighth Amendment. When the Fourteenth Amendment was adopted in 1868, 35 of the 37 states prohibited excessive fines. Today “all 50 States have a constitutional provision prohibiting the imposition of excessive fines either directly or by requiring proportionality.” The protection against excessive fines has been necessary “throughout Anglo-American history” because “exorbitant tolls undermine other constitutional liberties.”

By:
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Tags:
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- Fourteenth Amendment Due Process Clause
- Supreme Court
- asset forfeiture
- criminal asset forfeiture
- forfeiture
- Policy Area
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