

**Gallagher Sharp Municipal Practice Group Newsflash:
U.S. Supreme Court Holds "Excessive Fines Clause" Applicable to State Actions**

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On February 20, 2019, in *Timbs v. Indiana*, ___ U.S. ___ (2019), the Supreme Court of the United States held that the Constitution limits the ability of states and municipalities to seize private property used to commit crimes such as cars and money. This decision could lead to more legal challenges of property impounded by municipalities, particularly when the value of the property is significant, and consequently more civil actions for property seizure under 42 U.S.C. 1983.

Tyson Timbs pleaded guilty in Indiana state court to dealing in a controlled substance and conspiracy to commit theft. The state of Indiana sought civil forfeiture of Timbs' Land Rover SUV, which he purchased for \$42,000, charging that the SUV had been used to transport heroin. The maximum monetary fine assessable against him for his drug conviction was \$10,000.

The trial court determined that the civil forfeiture would result in an "excessive fine" under the Eighth Amendment and would be grossly disproportionate to the gravity of Timbs' offense; thus, the action would be unconstitutional. The Court of Appeals of Indiana affirmed the trial court, but the Supreme Court of Indiana reversed, holding that the Excessive Fines Clause constrains only federal actions and is inapplicable to state impositions. Timbs then appealed to the Supreme Court of the United States.

The specific issue before the Supreme Court was whether the Eighth Amendment's Excessive Fines Clause is an "incorporated" protection applicable to the states under the Fourth Amendment's Due Process Clause. The Supreme Court of the United States vacated the judgment of the Supreme Court of Indiana and remanded, holding that this portion of the Eighth Amendment did apply to the states.

Justice Ginsburg in the Supreme Court's majority opinion traced the origins of the Eighth Amendment's prohibition on "excessive fines" back to the Magna Carta, finding that "the historical and logical case for concluding that the Fourteenth Amendment incorporates the Excessive Fine Clause is overwhelming." She reasoned that "the protection against excessive fines guards against abuses of government's punitive or criminal law-enforcement authority." This safeguard, the Supreme Court held, is "fundamental to our scheme of ordered liberty," with "dee[p] root[s] in [our] history and tradition." Thus, pursuant to *McDonald v. Chicago*, 561 U.S. 742, 767 (2010), incorporation was permissible and the Excessive Fines Clause should apply to the states, as well as the federal government.

Justice Gorsuch and Justice Thomas filed concurring opinions, with Justice Thomas concurring in judgment.

The full opinion can be found at:

https://www.supremecourt.gov/opinions/18pdf/17-1091_5536.pdf

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