

Eighth Amendment Applies To State Civil Forfeitures

21 Feb 2019

Tyson Timbs pleaded guilty to dealing in heroin in Indiana, for which the maximum fine was \$10,000. The State sought to use civil forfeiture to seize his SUV, which Timbs bought for \$42,000, which was allegedly used to move the heroin. The state trial court denied the State's request as violative of the Eighth Amendment's protection against excessive fines, but the Indiana Supreme Court reversed, holding that the Amendment only applied to the federal government and not the states. The Court, in a unanimous opinion by Justice Ginsburg, reversed, holding that the Eighth Amendment was properly incorporated against the states through the Fourteenth Amendment's Due Process Clause. The Court found the evidence "overwhelming" that protection against excessive fines was a "fundamental" right "deeply rooted in this Nation's history and tradition." Thus, Indiana's attempt to take Timbs' SUV was subject to the constitutional restriction, and likely unconstitutional. Justice Gorsuch, in concurrence, noted that the Privileges and Immunities Clause of the Fourteenth Amendment might be a better vehicle for incorporation of the Bill of Rights against the states. Justice Thomas, concurring the judgment, argued more strenuously in favor of that view, delving deep into the history behind the Eighth Amendment. A link to the opinion in *Timbs v. Indiana* is [here](#).

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