



Supreme Court Holds That Eighth Amendment's Prohibition Of Excessive Fines And Related Forfeitures Applies To The States

Timbs v. Indiana, No. 17-1091

Decided February 20, 2019

The Supreme Court held 9-0 that the Eighth Amendment's prohibition of excessive fines applies to the States.

Background:

After Tyson Timbs pled guilty to dealing in a controlled substance and conspiracy to commit theft, an Indiana state trial court considered Indiana's request for civil forfeiture of his Land Rover, which he used to transport heroin. The trial court denied the request, reasoning that forfeiture of the vehicle would be grossly disproportionate to Timbs's offense, and thus impermissible under the Eighth Amendment's Excessive Fines Clause, because Timbs had recently purchased the vehicle for \$42,000—far more than the maximum \$10,000 fine assessable against him for the drug conviction. The Indiana Supreme Court reversed, concluding that the Excessive Fines Clause applies to only the federal government, not the States.

Issue:

Does the Eighth Amendment's Excessive Fines Clause apply to the States?

Court's Holding:

Yes. The Excessive Fines Clause is "fundamental to our scheme of ordered liberty" or "deeply rooted in this Nation's history and tradition," *McDonald v. Chicago*, 561 U.S. 742, 767 (2010), and therefore applies to the States under the Fourteenth Amendment's Due Process Clause.

"[T]he historical and logical case for concluding that the Fourteenth Amendment incorporates the Excessive Fines Clause is overwhelming."

Justice Ginsburg,
writing for the unanimous Court

Gibson Dunn Named
Appellate Firm of the Year



What It Means:

- The Court ruled that the Constitution’s prohibition of excessive fines applies to state and local governments, limiting their abilities to impose fines and seize property for forfeiture.
- The opinion imposes a new constitutional constraint on more than thirty States that have not already incorporated the Excessive Fines Clause (e.g., Michigan, New York, and Virginia), limiting their ability to levy fines and forfeitures, which are often key sources of revenue for state and local governments.
- The Court did not address when a fine is impermissibly “excessive” under the Eighth Amendment. It noted, however, that the lineage of the Excessive Fines Clause traces back to the Magna Carta, which generally required economic sanctions to be proportionate to the underlying wrong.
- The opinion gives defendants in suits brought by state and local governments a potential new defense to excessive fines and penalties.

Gibson Dunn’s lawyers are available to assist in addressing any questions you may have regarding developments at the Supreme Court. Please feel free to contact the following practice leaders:

Appellate and Constitutional Law Practice

Caitlin J. Halligan
+1 212.351.3909
challigan@gibsondunn.com

Mark A. Perry
+1 202.887.3667
mperry@gibsondunn.com

Related Practices: Anti-Money Laundering, Forfeiture, White Collar Defense, and Investigations

Joel M. Cohen
+1 212.351.2664
jcohen@gibsondunn.com

Charles J. Stevens
+1 415.393.8391
cstevens@gibsondunn.com

F. Joseph Warin
+1 202.887.3609
fwarin@gibsondunn.com

Stephanie Brooker
+1 202.887.3502
sbrooker@gibsondunn.com

M. Kendall Day
+1 202.955.8220
kday@gibsondunn.com

© 2019 Gibson, Dunn & Crutcher LLP, 333 South Grand Avenue, Los Angeles, CA 90071

Attorney Advertising: The enclosed materials have been prepared for general informational purposes only and are not intended as legal advice.

If you would prefer NOT to receive future e-mail alerts from the firm, please reply to this email with the word "UNSUBSCRIBE" in the subject line. Thank you.

Please visit our website at www.gibsondunn.com. | Legal Notice, Please Read.