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SIDEBAR

He Sold Drugs for \$225. Indiana Took His \$42,000 Land Rover.

By **Adam Liptak**

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WASHINGTON — Tyson Timbs would like his Land Rover back.

The State of Indiana took it, using a law that lets it seize vehicles used to transport illegal drugs. Last week, the Supreme Court agreed to decide whether the Constitution has anything to say about such civil forfeiture laws, which allow states and localities to take and keep private property used to commit crimes.

Mr. Timbs bought the Land Rover after his father died. The life insurance money amounted to around \$73,000, and he spent \$42,000 of it on the vehicle. He blew most of the rest on drugs.

“Unfortunately, I had a whole bunch of money, which isn’t a good idea for a drug addict to have,” Mr. Timbs recalled the other day. “I used a lot, and eventually the money ran out. It was an addict’s life.”

Mr. Timbs’s habit started with an opioid addiction and progressed to heroin. He used his Land Rover to get drugs and, on at least two occasions, to sell them. The buyers were undercover police officers.

Mr. Timbs pleaded guilty to one of the drug sales, in which \$225 had changed hands, and he was sentenced to a year of house arrest followed by five years of probation. He also agreed to pay an array of fees and fines adding up to about \$1,200.

But Indiana wanted more. Using the civil forfeiture law, it took the Land Rover.

Mr. Timbs, 37, has put his life back together, but it has not been easy. “I have to go to meetings, to counseling, to probation appointments,” he said, making clear that he was not complaining.

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“They want you to get a job,” he said. “It’s hard to do without a vehicle. Plus, I was a felon, which makes it even harder to find a job.”

He found work as a machinist in a factory some 40 minutes from his home in Marion, Ind., where he lives with his aunt. He borrows her car to get to work, and he feels guilty about that.

“She has to take a bus back and forth to her kidney dialysis appointments,” he said.

As Justice Clarence Thomas explained last year in an opinion urging the Supreme Court to examine civil forfeiture laws, government seizures of property used to commit crimes have become worryingly popular.

“Forfeiture has in recent decades become widespread and highly profitable,” Justice Thomas wrote. “And because the law enforcement entity responsible for seizing the property often keeps it, these entities have strong incentives to pursue forfeiture.”



Justice Clarence Thomas urged the court to examine civil forfeiture laws in an opinion last year. Jonathan Ernst/Reuters

“This system — where police can seize property with limited judicial oversight and retain it for their own use — has led to egregious and well-chronicled abuses,” he wrote, citing excellent reporting from *The Washington Post* and *The New Yorker*.

The burdens of civil forfeiture fall disproportionately on the poor, said Wesley P. Hottot, a lawyer with the Institute for Justice, which represents Mr. Timbs.

“Tyson’s case illustrates how civil forfeiture makes it harder for people who have made mistakes to correct those mistakes and re-enter society,” Mr. Hottot said. “It shouldn’t take the United States Supreme Court to make clear that you don’t take everything from a person who’s facing the kinds of challenges Tyson is.”

Mr. Timbs won the early rounds in Indiana’s lawsuit seeking to take his vehicle, based on the Eighth Amendment, which says that “excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

Judge Jeffrey D. Todd, of the Grant County Superior Court, said the amendment’s second clause — the one barring “excessive fines” — protected Mr. Timbs. The Land Rover, the judge wrote, was worth about four times the maximum fine Mr. Timbs could have been ordered to pay, which was \$10,000. It was also worth more than 30 times the fines that were actually imposed.

“The amount of the forfeiture sought is excessive and is grossly disproportional to the gravity of the defendant’s offense,” Judge Todd wrote.

An appeals court agreed. In dissent, Judge Michael P. Barnes wrote that civil forfeiture laws can be abused but that Mr. Timbs should lose the vehicle.

“I am keenly aware of the overreach some law enforcement agencies have exercised in some of these cases,” Judge Barnes wrote. “Entire family farms are sometimes forfeited based on one family member’s conduct, or exorbitant amounts of money are seized. However, it seems to me that one who deals heroin, and there is no doubt from the record we are talking about a dealer, must and should suffer the legal consequences to which he exposes himself.”

The Indiana Supreme Court ruled against Mr. Timbs, on interesting grounds. It said the Eighth Amendment’s prohibition of excessive fines did not apply to ones imposed by states.

This is, surprisingly, an open question. The Bill of Rights originally restricted the power of only the federal government, but the Supreme Court has ruled that most of its protections apply to the states under the due process clause of the 14th Amendment, one of the post-Civil War amendments.

But there are a few exceptions, and the Supreme Court has been inconsistent about where it stands on the excessive fines clause. Mr. Timbs’s case is poised to resolve the question. It will be argued in the fall.

In the meantime, Mr. Timbs sometimes lapses into frustration and bitterness.

“I don’t deserve this,” he said. “Nobody does. It’s an unnecessary stressor. I struggle with more than addiction. I struggle with anxiety and depression. I don’t feel like much of a man, because I don’t have a vehicle.”

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