

A man pleaded guilty in state court to dealing a controlled substance. He was sentenced to two years of probation and ordered to pay a \$2,000 fine, the maximum monetary fine permissible for this offense. The state has now brought a civil forfeiture action in state court against the man's new automobile, which was seized when the man was arrested.

The state claims that the man used the automobile to transport the controlled substance. The man, who had recently purchased the automobile for \$50,000 with money he inherited from his mother's estate, believes that the civil forfeiture action violates his constitutional rights.

What is the most obvious constitutional basis for the man to challenge the civil forfeiture action?

- A. The Eighth Amendment's prohibition against excessive fines, as incorporated into the due process clause of the Fifth Amendment.
- B. The Eighth Amendment's prohibition against excessive fines, as incorporated into the due process clause of the Fourteenth Amendment.
- C. The Fifth Amendment's prohibition against taking private property without just compensation, as incorporated into the due process clause of the Fifth Amendment.
- D. The Fifth Amendment's prohibition against taking private property without just compensation, as incorporated into the due process clause of the Fourteenth Amendment.

Explanation:

The Bill of Rights is composed of the first 10 amendments to the U.S. Constitution. Prior to the ratification of the [Civil War Amendments](#), the Bill of Rights only limited the power of the federal government. These protections, with limited exceptions, have since been incorporated into the due process clause of the Fourteenth Amendment and therefore apply to the states with equal force.

In *Timbs v. Indiana*, the Supreme Court held that the **Eighth Amendment** ban on **excessive fines** applies to the states because it has been incorporated into the **Fourteenth Amendment due process clause**. The Eighth Amendment ban limits the amount of payments, whether in cash or other property, that may be imposed as punishment for an offense. Since the maximum allowable fine for the man's offense is \$2,000 but his car is worth \$50,000, this protection is his most obvious basis to challenge the [civil forfeiture action](#).

(Choice A) The Fifth and Fourteenth Amendment due process clauses contain the same language. However, the Fifth Amendment applies to the *federal* government while the Fourteenth Amendment applies to the *states*.

(Choices C & D) The Fifth Amendment takings clause—applied to the states through the *Fourteenth* Amendment due process clause—bars the government from taking private property for public use without just compensation. However, the Supreme Court has consistently held that a government seizure of property for a criminal investigation or forfeiture action (as seen here) is not a [Fifth Amendment taking](#).

Educational objective:

Most of the Bill of Rights protections, including the Eighth Amendment ban on excessive fines, apply with equal force to the states because they have been incorporated into the Fourteenth Amendment due process clause.

References

- *Timbs v. Indiana*, 139 S. Ct. 682, 687 (2019) (holding that the Eighth Amendment's ban on excessive fines applies to the states through the Fourteenth Amendment due process clause).

Applicability of Bill of Rights to states



Exceptions



Ban on quartering soldiers
(3rd Amendment)



Right to grand jury indictment
(5th Amendment)



Right to civil jury trial
(7th Amendment)