

IN THE SUPREME COURT OF THE UNITED STATES

No. 22-585

HALIMA TARIFFA CULLEY, ET AL., PETITIONERS

v.

STEVEN T. MARSHALL, ATTORNEY GENERAL OF ALABAMA, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE
IN ORAL ARGUMENT AS AMICUS CURIAE AND FOR DIVIDED ARGUMENT

Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae supporting respondents and requests that the United States be allowed ten minutes of argument time. Respondents have agreed to cede ten minutes of argument time to the United States, and consent to this motion.

This case presents the question of what constitutional standard should be used to evaluate the process that is due after property that is subject to forfeiture is taken into custody. Petitioners owned vehicles that were seized incident to arrests and subject to civil-forfeiture proceedings under the pre-2022

version of Alabama law. See Ala. Code § 20-2-93 (West 2015). The State instituted forfeiture proceedings for each vehicle within 14 days of the seizures. In the forfeiture proceedings, the state courts ultimately concluded that petitioners were innocent owners and ordered their vehicles returned to them. The brief for the United States explains that petitioners' due process rights -- and the due process rights of similarly situated claimants -- are fully protected by the requirement that the State timely commence forfeiture proceedings, thereby ensuring judicial oversight of the property's disposition. See United States v. Von Neumann, 474 U.S. 242, 249 (1986); United States v. \$8,850 in U.S. Currency, 461 U.S. 555, 562-570 (1983).

The United States has a substantial interest in the resolution of the question presented. The United States regularly conducts forfeiture proceedings against seized property. See, e.g., 18 U.S.C. 981, 983; see also \$8,850, 461 U.S. at 558 (noting that "[t]he Customs Service processes over 50,000 noncontraband forfeitures per year"). It therefore has a direct interest in the standards for assessing the constitutionality of the forfeiture process.

The United States has previously presented oral argument as a party and as amicus curiae in other cases involving the constitutional standard for evaluating the process that is due after property that is subject to forfeiture is taken into custody. See,

e.g., Alvarez v. Smith, 558 U.S. 87 (2009); Bennis v. Michigan, 516 U.S. 442 (1996); Von Neumann, 474 U.S. 242; \$8,850, 461 U.S. 555. In light of the government's substantial interests in the question presented, the United States' participation at oral argument would materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

AUGUST 2023