No. _____

In the Supreme Court of the United States

RYAN O'DONNELL AND MICHAEL GOREE,
INDIVIDUALLY AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED,

Petitioners,

v.

CITY OF CHICAGO AND
URT UNITED ROAD TOWING, INC.,

Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

If a driver has two unpaid parking tickets, the City of Chicago will impound the driver's vehicle and sell it. The City keeps the sales proceeds without offsetting the ticket debt or refunding the surplus. This practice applies to all vehicles registered to the driver, including vehicles that were never ticketed, and all future vehicles purchased after any infraction.

The questions presented are:

1. Is this practice an unconstitutional taking?

2. Does the Takings Clause of the Fifth Amendment place any limit on the ability of a local government to confiscate property under its police power?

PARTIES TO THE PROCEEDINGS

Petitioners, and plaintiffs-appellants below are Ryan O'Donnell and Michael Goree, individually and on behalf of all others similarly situated.

Respondents, and defendants-appellees below are the City of Chicago and URT United Road Towing, Inc.

RELATED PROCEEDINGS

United States District Court (N.D. Ill.):

> *Ryan O'Donnell, et al.* v. *City of Chicago, et al.*, No. 1:23-cv-01192 (Sep. 28, 2024) (dismissal)

United States Court of Appeals (CA7):

> *Ryan O'Donnell and Michael Goree, individually and on behalf of all other similarly situated* v. *City of Chicago* and *URT United Road Towing, Inc.*, No. 24-2946 (Dec. 22, 2025) (dismissal affirmed)

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JURISDICTION

The Seventh Circuit's decision was entered on December 22, 2025. This Court has jurisdiction under 28 U.S.C. §1254(1).

STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the U.S. Constitution provides, "nor shall private property be taken for public use, without just compensation." U.S.Const., Amdt. V.

42 U.S.C. §1983 provides in relevant part:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State, . . . subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress….

Municipal Code of Chicago §9-100-120 is reproduced in the Appendix at App. 19–25.

INTRODUCTION

This case raises the question of whether the Takings Clause places any limit on a municipality's ability to confiscate and sell all vehicles owned by a person, in perpetuity, when that person owes a debt to the municipality for unpaid parking tickets. By holding that Chicago can take more private property than necessary to satisfy that debt, the courts below departed from this Court's recent precedent in *Tyler* v. *Hennepin Cnty., Minnesota*, 598 U. S. 631 (2023).

The Municipal Code of Chicago (MCC) authorizes the City to impound and sell every vehicle registered in the name of any person with three unpaid parking citations, or two that are unpaid for one year. See MCC §9-100-120(b). These sales are conducted subject to a possessory lien in the amount of the unpaid administrative judgments entered on the citations. See MCC §9-100-120(j) (possessory lien); MCC §§9-100-050 (administrative law officer's determination of liability on parking citations); MCC §2-14-103(b) ("[An] order of an administrative law officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.").

Chicago, however, does not sell vehicles at their fair market value, nor does it apply the sales proceeds to the debt to extinguish the lien. Instead, the City sells each vehicle, keeps the sales proceeds, offsets no debt and returns no surplus. If the driver owns other vehicles, they will get the same treatment. If the driver purchases a new car, the City will impound and sell that one too. And the next car after that, in perpetuity, including vehicles that were never involved in any underlying infraction. In this way, the City confiscates

and sells vehicles worth far more than the underlying fines and penalties. The proceeds from these sales are deposited in the City's general fund, where they are used to fund the City's ongoing operations.

These confiscations are not based on the number or seriousness of the infractions. They only target those who have ticket judgments that "have not been paid in full[.]" See MCC §9-100-120(b). Serial offenders who speed in school zones (MCC §9-12-075) or who literally drive without brakes or headlights (MCC §9-76-010; 9-76-210) avoid confiscation so long as they can afford to pay their fines. Petitioners here, on the other hand, lost their vehicles because their parking meter expired or they failed to renew their registration. N.D. Ill. ECF No. 51-1 at Page ID# 844-50.

The result is devastating and counterproductive. The owner loses a car—usually their most important asset and only way to get to work, school, worship, etc.—and is left saddled not only with the existing ticket debt, but also new towing and storage fees. Often, drivers are left to pay off car loans on vehicles they no longer own. See, *e.g.*, Mark Rivera, *Chicago man sues the city after his impounded car was sold*, ABC News Chicago (Feb. 26, 2020), https://abc7chicago.com/car-impounded-city-of-chicago-lawsuit-unconstitutional/5970063/ (reporting on brand new vehicle that was towed and sold by the City for a few hundred dollars in unpaid ticket debt leaving the owner with $17,000 in loan payments on the vehicle, plus ticket debt and loss of his delivery job).

The City's aggressive ticketing and tow practices have been so financially devastating for so many residents that Chicago now "leads the nation in Chapter 13 [bankruptcy] filings." See Melissa Sanchez and

Sandhya Kambhampati, *How Chicago Ticket Debt Sends Black Motorists Into Bankruptcy*, ProPublica (Feb. 27, 2018), http://features.propublica.org/driven-into-debt/chicago-ticket-debt-bankruptcy/ (reporting on owners of impounded vehicles declaring bankruptcy to get their cars back); Paul Kiel and Hanna Fresques, *Chicago's Bankruptcy Boom*, ProPublica (Sept. 28, 2017), http://www.propublica.org/article/chicagos-bankruptcy-boom ("Chapter 13 filings has mainly been driven by black, low-income debtors unable to pay tickets owed to the City of Chicago. By filing under Chapter 13, these people are trying to keep their cars….").

The City's practice of seizing property subject to a lien and selling it and keeping everything is an unconstitutional taking. Historical precedent and laws across the country have consistently recognized a property interest in an asset held subject to a lien not just in an amount equal to satisfy the debt, but also to any surplus after the debt is satisfied. As this Court recently observed, "[t]he principle that a government may not take more from a [debtor] than she owes can trace its origins at least as far back as Runnymede in 1215, where King John swore in Magna Carta…." *Tyler*, 598 U. S. at 639.

The Seventh Circuit nonetheless declined to follow *Tyler*, holding that "[t]he principle at work in *Tyler*—that the government 'may not take more from a taxpayer than she owes'—doesn't apply here, where the government enforces laws pursuant to its police power." App. 7. But *Tyler*, like here, involved enforcement of a fully adjudicated judgment. See *Tyler*, 598 U. S. at 635 (enforcement of foreclosure judgment). Whether that judgment was for unpaid taxes or

unpaid parking tickets, or something else, was of no moment in *Tyler*, which recognized that, even outside the tax context, judgment creditors traditionally can only seize property up to the amount of the judgment:

> [I]n other contexts a property owner is entitled to the surplus in excess of her debt. … [A] private creditor may enforce a judgment against a debtor by selling her real property, but "[n]o more shall be sold than is sufficient to satisfy" the debt, and the creditor may receive only "so much [of the proceeds] as will satisfy" the debt.

Tyler, 598 U. S. at 645 (quoting Minn. Stat. §§550.20, 550.08); see also 735 ILCS 5/12-169 ("[T]he proceeds of the sale shall be applied to the discharge of the … judgments … and the residue, if any, shall be returned to the debtor….").

The Seventh Circuit's conclusion that the government can take property in perpetuity under its "police power to enforce its traffic code" (App. 7) goes too far and would lead to absurd results. A homeowner who fails to mow her lawn (see MCC §7-28-120) and fails to pay the fine, for example, could have her house seized and sold by the City with no compensation, and even the next house she owns, all under the guise of the "police power to enforce its [nuisance] code." This Court should decline to accept such a sweeping interpretation of the City's police powers. As this Court once warned:

> When this seemingly absolute protection is found to be qualified by the police power, the natural tendency of human

> nature is to extend the qualification more and more until at last private property disappears. But that cannot be accomplished in this way under the Constitution of the United States.

Pennsylvania Coal Co. v. *Mahon*, 260 U. S. 393, 415 (1922).

There must be some limiting principle on the police power. Here, the punishment for violating the City's parking and traffic laws was already handed down by an administrative court and brought to final judgment. The City's interest in enforcing its parking and traffic laws can extend only as far as the fines and penalties handed down by that court. Once the judgment is satisfied—either by payment or seizure and sale of property up to the amount owed—the City's punitive goals have been achieved. Taking property worth vastly more than the fines and penalties exceeds any interest in enforcing the City's parking and traffic laws. Petitioners respectfully request this Court to grant the petition and adopt this commonsense limitation on the government's police power.

STATEMENT OF THE CASE

I. The City of Chicago's Unconstitutional Vehicle Confiscations.

In Chicago, parking and other minor traffic violations are civil, not criminal, and adjudicated at the City's Department of Administrative Hearings (DOAH), an administrative court and independent judicial body. See MCC §9-100-010; see also *Van Harken* v. *City of Chicago*, 103 F. 3d 1346, 1349–50 (CA7 1997) (noting that in 1990 the City of Chicago

"decriminalized parking violations and substituted a civil penalty system").

If a motorist is found liable for a violation, DOAH issues a "determination of liability" and assesses fines and penalties. See MCC §§9-100-050(d); 9-100-090(a)-(b); 9-100-100. The determination of liability is an administrative judgment, and civil debt, that can be enforced in the same manner as a judgment entered by the circuit court. See MCC §9-100-100(b) ("Any fine and penalty [imposed by the administrative law officer] remaining unpaid …shall constitute a debt due and owing the city which may be enforced in the manner set forth in Section 2-14-103 of this Code."); MCC §2-14-103(b) ("[An] order of an administrative law officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction."); *see also* 65 ILCS 5/1-2.1-8(a)-(b) (administrative fines can be enforced "in the same manner as a judgment entered by a court of competent jurisdiction").

If a vehicle owner has two such judgments that are unpaid for more than a year, or three unpaid at any time, the municipal code authorizes the City to place all vehicles owned by that individual on an immobilization (*i.e.*, boot) list. See MCC §9-100-120(b). If the owner is not able to pay the judgments and boot fee, the booted car is then towed and impounded. See MCC §9-100-120(c). The fees then accelerate: On top of a $100 immobilization fee, the City adds a $250 tow fee and a $50 per day storage fee. See MCC §§9-100-120(g); 9-92-080(b). The owner has 21 days to pay the original fines, fees, and collection costs, plus the additional boot, tow, administrative, and storage fees to recover the vehicle. See MCC §9-100-120(d)(2), (f).

Most Chicagoans cannot raise that kind of money in that little time. Indeed, a recent study found that motorists who are unable to pay their ticket debt are also likely unable to afford the additional fees and towing costs that must be paid to redeem their vehicles once they are towed and impounded:

> Tickets issued to drivers from [low- and moderate-income (LMI)] zip codes were more likely to go unpaid, resulting in doubling ticket amounts and additional fines, than tickets issued to drivers from non-LMI zip codes. *** Tickets issued to drivers in minority zip codes were also more likely to go unpaid and accrue fines than tickets issued to drivers from non-minority zip codes. *** Once a ticket goes unpaid, it can quickly push the recipient into a debt spiral. Tickets that go unpaid double in amount and accrue additional fines. Vehicles can be immobilized by car boot, towed, and impounded, which results in additional fines.

The Debt Spiral: How Chicago's Vehicle Ticketing Practices Unfairly Burden Low-Income and Minority Communities at 8-9, WOODSTOCK INSTITUTE (June 2018), https://woodstockinst.org/wp-content/uploads/2018/06/The-Debt-Spiral-How-Chicagos-Vehicle-Ticketing-Practices-Unfairly-Burden-Low-Income-and-Minority-Communities-June-2018.pdf; see also *id.* at 11 ("If recipients were not able to pay initial tickets, it is likely they were unable to afford additional fees resulting from towing and impoundment."); *In re Fulton*, 926 F. 3d 916, 927, n. 2 (CA7 2019),

vacated and remanded sub nom. City of Chicago, Illinois v. *Fulton*, 592 U. S. 154 (2021) (noting that "the disproportionate effect of the City's traffic fines and fees on its low-income residents" has resulted in a "'flood' of Chapter 13 [bankruptcy] filings").

If the owner is not able to pay, the City keeps the vehicle and can add it to its own fleet or convert it to cash by auctioning it off or selling it. See MCC §9-92-100(b)-(d). If the vehicle is sold, the City keeps all of the proceeds without even offsetting any of the ticket debt. N.D. Ill. ECF No. 1 at 4 (Complaint (Cmplt.) at ¶ 9).[1]

Chicago's impoundment ordinance does not even target the vehicle that was used in a particular infraction. Instead, *any and all vehicles* owned by a person with unpaid ticket judgments are eligible to be towed and sold even if they were never involved in any violation. See MCC §9-100-120(b) (failure to pay outstanding ticket debt results in "the vehicle or vehicles of such owner" being put on the immobilization list); see also N.D. Ill. ECF No. 30-1 at Page ID #280 ("any vehicle you own may be booted and impounded until all fines, costs and penalties have been paid"); N.D. Ill. ECF No. 30-1 at Page ID #283, 285, 287 ("any vehicle registered in your name may be booted unless all fines and penalties are paid").

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[1] Tellingly, the City's impoundment ordinance is not administered by the Department of Streets and Sanitation or the Chicago Police Department, but by the City Comptroller's Department of Finance. See MCC §9-100-120 (granting authority to "traffic compliance administrator"); MCC §9-100-010 (designating comptroller as traffic compliance administrator); see also N.D. Ill. ECF No. 50-2 at Page ID#631 ("All Booting operations … are under the authority of the Department of Revenue.").

Similarly, in order to reclaim an impounded vehicle, the owner must arrange to pay not only all outstanding ticket debt associated with that vehicle, but also all ticket debt associated with any other vehicle registered in the owner's name. See MCC §9-100-120(d)(2) ("[T]he owner of an immobilized vehicle … may secure the release of the vehicle by paying … all amounts, including any fines, penalties, administrative fees … remaining due on each final determination for liability issued to the owner."); see also N.D. Ill. ECF No. 30-1 at Page ID #287 ("All fines and penalties can included *any* ticket(s) … issued to any vehicle(s) registered in your name.") (emphasis in original).

In 2017, the City made it explicit that the purpose of vehicle impoundments under MCC §9-100-120 is to collect a debt, not enforce public safety laws. At that time, the City amended its municipal code to state that "[a]ny vehicle immobilized by the City or its designee shall be subject to a possessory lien in favor of the City in the amount required to obtain release of the vehicle." See Amend Coun. J. 6-28-17, p. 51165, §1; see also MCC §9-100-120(j). The reason for the change was simple: so many Chicagoans were going bankrupt from ticket debt that—due to the automatic stay that comes with declaring bankruptcy—the City was frequently forced to release impounded vehicles. See Sanchez and Kambhampati, *supra* (reporting on owners of impounded vehicles in Chicago declaring bankruptcy to get their cars back); Paul Kiel and Hanna Fresques, *supra* (same).

By enforcing liens on towed vehicles, the City reasoned, it would avoid the automatic stay and keep vehicles until their owners paid up—bankruptcy or not. Indeed, the City publicly declared that the

amendment would close the bankruptcy "loophole" and stop the "growing practice of individuals attempting to escape financial liability" and "avoid paying monies due to the City" simply because they were broke. See Amend Coun. J. 6-28-17, p. 51164-51165. In other words, the change allowed the City to impound vehicles as a tool to coerce even its literally bankrupt citizens into payment. No mention was made of public safety or law enforcement. *Ibid.*

II. The taking of Petitioners' vehicles.

Petitioner O'Donnell received three minor parking tickets from the City of Chicago: two for an expired meter and one for time restricted parking. N.D. Ill. ECF No. 51-1 at Page ID# 844-50. He was found liable for each ticket at the City's administrative court and judgments were entered against him assessing fines and penalties that amounted to a few hundred dollars. See N.D. Ill. ECF No. 51-1 at Page ID# 844 (listing administrative judgments against O'Donnell in the amounts of $158.60, $244.00, and $122.00). Because O'Donnell was unable to pay these amounts, the City impounded and sold his vehicle. N.D. Ill. ECF No. 1 at Page ID #17 (Cmplt. at ¶ 59). The City did not use any of the proceeds to offset the ticket debt or return any surplus to O'Donnell. *Ibid.*

The City also impounded and disposed of Petitioner Goree's vehicle. N. D. Ill. ECF. No. 1 at Page ID #17-81 (Cmplt. at ¶ 61). Goree's vehicle was not impounded and disposed of as a result of ticket debt associated with his vehicle. N. D. Ill. ECF. No. 1 at Page ID #18 (Cmplt. at ¶ 62). Nor was it impounded and disposed of for ticket debt that he accumulated or owed. *Ibid.* Rather, the co-signor on Goree's vehicle

had outstanding ticket debt from a different vehicle. *Ibid*. On that basis, the City took and disposed of Goree's vehicle. *Ibid*.

III. Petitioners' legal challenge.

Petitioners filed this lawsuit on February 27, 2023. N.D. Ill. ECF No. 1. The district court had jurisdiction over the action pursuant to 28 U. S. C. §1331 because Counts I-II of the Complaint arose under the Constitution and laws of the United States, specifically the Takings Clause, U.S.Const., Amdt. V and 42 U. S. C. §1983.

On September 28, 2024, the district court entered an order granting Defendants' motions to dismiss. App. 9. Specifically, the district court found that "the City's vehicle forfeiture scheme was not facially unconstitutional under the Takings Clause because it constituted the type of forfeiture process" allowed under *Bennis*. App. 16. (citing *Bennis* v. *Michigan*, 516 U. S. 442 (1996)). The district court subsequently dismissed the case with prejudice and entered a final judgment in favor of Defendants. N. D. Ill. ECF. Nos. 58-59. Petitioners timely appealed. N. D. Ill. ECF. No. 61.

On December 22, 2025, the Seventh Circuit affirmed the dismissal of Petitioners' complaint. App. 1. The Seventh Circuit similarly held that the "immobilizing, towing, impounding, and—if necessary—disposing of vehicles under §9-100-120 is an exercise of the City's police power to enforce its traffic code, and thus isn't a taking." App. 5.

REASONS FOR GRANTING THE PETITION

I. The lower courts' decisions conflict with historical practice, well-established common law since the founding, and this Court's recent precedent in Tyler v. Hennepin County.

Since our nation's founding, common law has guaranteed debtors the right to receive the surplus value of chattel property seized and sold to satisfy a civil judgment. See, e.g., *Tiernan* v. *Wilson*, 6 Johns. Ch. 411, 415 (1822) (sale to pay judgment) (discussing English oxen cases); see also *Cone* v. *Forest*, 126 Mass. 97 (1879) (cows); *Seekins* v. *Goodale*, 61 Me. 400 (1873) (cloth). The First Congress provided that owners of chattels seized for non-payment had a property right to the debt offset and any "overplus." See, e.g., 1 Cong. Ch. 35, Aug. 4, 1790, 1 Stat. 145, §§33, 41, 42 (goods); 1 Cong. Ch. 15, Mar. 3, 1791, 1 Stat. 199, §§3, 23 (spirits). The colonies and early states had similar laws. See, e.g., *Den ex dem. Murray* v. *Hoboken Land & Imp. Co.*, 59 U. S. 272, 279 (1855) (collecting statutes).

Modern statutes adopted this practice. In Illinois, a judgment debtor may be compelled "to deliver up, to be applied in satisfaction of the judgment, in whole or in part, … property[.]" 735 ILCS 5/2-1402(c)(1). But "the proceeds of the sale shall be applied to the discharge of the … judgments … and the residue, if any, shall be returned to the debtor…." 735 ILCS 5/12-169; see also 810 ILCS 5/9-333 (codifying priority of possessory liens); 810 ILCS 5/9-615(a)(2), (d)(1) (party selling property held subject to lien must extinguish the debt and "account to and pay a debtor for any surplus"); 770 ILCS 45/6 ("the proceeds derived from such

sale shall be applied to … the amount of such lien … and the overplus, if any there be, shall be paid to the owner of such chattel").

This right extended to property seized for non-payment of fines and penalties under the government's police power. Fines for loose livestock were common, as was the seizure of said livestock until those fines were satisfied, with forced sales to satisfy unpaid fines, and the surplus remitted to the owner. See, e.g., *Gilmore* v. *Holt*, 21 Mass. 258, 272 (1826) ("if the penalties and costs are not paid" the justices of the peace "are to appraise so many of the cattle as will amount to the penalties and the costs and charges, … or may cause the same to be sold, returning the surplus, if any, to the owner"); *Kennedy* v. *Sowden*, 26 S.C.L. 323, 325-26 (1841) ("in the event that no owner appears to claim the property, or appearing, shall fail or refuse to pay the fine, then the hogs shall be sold, and the excess above the fine shall be paid to the owner"); *Case* v. *Hall*, 21 Ill. 632, 634 (1859) (same); *Willis* v. *Legris*, 45 Ill. 289, 291 (1867) ("any animal sold by virtue of this ordinance, may have any surplus money arising from such sale, over the penalty hereinbefore provided and the costs, returned to him"); *Shook* v. *Sexton*, 37 Wash. 509 (1905) (same, sale of horse).

The justification for these confiscations was found in the "police power," but that justification did not allow the government to "forfeit[] or confiscate[] the proceeds of the sale of the property beyond the payment of the legal charges thereon. The overplus belongs to the owner[.]" *Wilcox* v. *Hemming*, 15 N.W. 435, 440 (Wis. 1883). Other cases involved militia fines. See, e.g., *Macon* v. *Cook*, 11 S.C.L. 379 (1820) (sale of horse

to pay fine, overplus refunded); *Fox* v. *Wood*, 1 Rawle 143 (1829) (goods).

Petitioners here have a traditional property right in the surplus value of their vehicles when they were seized for non-payment of fines set forth in a judgment, which Illinois cannot disavow by statute. See *Tyler*, 598 U. S. at 638 (state law is not the "only source" to determine property rights, "[o]therwise, a State could 'sidestep the Takings Clause by disavowing traditional property interests' in assets it wishes to appropriate").

The lower courts were wrong to depart from *Tyler* on the basis that it involved the taxing power, not the police power. According to the district court, "*Tyler* is inapposite because its holding was rooted in '[t]he principle that a government may not take more from a taxpayer than she owes,' which dates back to the Magna Carta." App. 17 (citing *Tyler*, 598 U. S. at 639); see also App. 7 (same).

But the precedent cited in *Tyler* did not mention taxes at all or even the seizure of real property. Rather, like here, this precedent involved debts to the Crown and the seizure of chattels (i.e., personal property):

> The sheriff and the bailiffs … attached and sold chattels out of all proportion to the sum actually due; and after satisfying the Crown debt, a large surplus would often remain in the sheriff's hands which it would be exceedingly difficult for the relatives of the deceased freeholder to force him to disgorge.
>
> Magna Carta here sought to make such irregularities impossible for the future

> by carefully defining the exact procedure to be followed in such circumstances.
>
> ***
>
> [Under the Magna Carta] the officers were only allowed to attach as many chattels as could reasonably be considered necessary to satisfy the full value of the debt due….

W. McKechnie, MAGNA CARTA, A COMMENTARY ON THE GREAT CHARTER OF KING JOHN, ch. 26, p. 322 (rev. 2d ed. 1914) (cited in *Tyler* at 598 U. S. at 639).

Blackstone, the other precedent cited in *Tyler*, also did not involve property taxes or real property, but bailments and debts and noted that when personal property is taken for non-payment there is an "implied contract in law to restore [the property] on payment of the debt … or, when sold, to render back the overplus." 2 Commentaries on the Laws of England 453 (1771) (cited in *Tyler*, 598 U. S. at 639).

So, the historical precedent relied on in *Tyler* was not limited to the taxing power. It involved, like here, debts to the Crown and seizing *personal* property for that unpaid debt—and the Crown's limited interest in securing payment only on what is due. So, the historical precedent cited in *Tyler* applies directly to this case.

The lower courts also ignored another critical similarity between *Tyler* and this case: they both involved the enforcement of a fully adjudicated judgment. The county in *Tyler* obtained a foreclosure judgment against the property owner that it sought to enforce by selling the property. See *Tyler*, 598 U. S. at 635

("the County obtains a judgment against the property *** if at the end of three years the bill has not been paid, absolute title vests in the State *** If the property is sold, any proceeds in excess of the tax debt and the costs of the sale remain with the County"). Chicago's impoundment and sale of vehicles is similarly a mechanism to enforce a judgment. See *In re Fulton*, 926 F.3d at 931 ("The continued possession of the vehicles is the City's attempt … to enforce final judgments requiring monetary payment from the debtors."); *Matter of Mance*, 31 F.4th 1014, 1021 (CA7 2022) (Chicago's vehicle impoundments seek to enforce a "judicial lien … based upon the prior quasi-judicial adjudications and money judgments that determine the lien's validity and amount").

This Court expressly recognized that when enforcing a judgment the creditor can confiscate and sell property but only receive an amount that will satisfy the debt: "[A] … creditor may enforce a judgment against a debtor by selling her real property, but … the creditor may receive only 'so much [of the proceeds] as will satisfy' the debt." *Id.* at 645. This too is consistent with historical precedent and laws across the country, including in Illinois. See supra at 13-15.[2]

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[2] Even the Illinois law that authorized Chicago's impoundment program in the first place provided that municipalities can "establish a program whereby the registered owner … is entitled to any proceeds from the disposition of the vehicle, less any reasonable storage charges, administrative fees, booting fees, towing fees, and parking and compliance fines and penalties." 625 ILCS 5/4-208(a). Oddly, despite the Illinois General Assembly's acknowledgment that an owner should be afforded compensation when the government confiscates her vehicle to satisfy ticket debt, the City never adopted an ordinance or program entitling such compensation to the owner.

So, the only "firmly fixed" practice in American history when seizing property for unpaid debt is to apply the sales proceeds to the debt and return the surplus to the owner. But just like in *Tyler*, the City "now makes an exception only for itself[.]" *Tyler*, 598 U. S. at 645. In short, the lower courts' decisions are directly at odds with this Court's decision in *Tyler*.

II. The lower courts' decisions are inconsistent with this Court's holding in Bennis v. Michigan.

Relying on *Bennis* v. *Michigan*, 516 U. S. 442 (1996), the lower courts held that the City's unpaid ticket ordinance is "the kind of law enforcement forfeiture scheme 'firmly fixed in the punitive and remedial jurisprudence of the country' and does not constitute a taking." App. 5; App. 16. The lower courts' reliance on *Bennis* is misplaced. In *Bennis*, the vehicle was forfeited solely for the reason that it "facilitated and was used in criminal activity." *Bennis*, 516 U. S. at 453. Here, unlike *Bennis*, the City does not take and keep vehicles because they were used in the commission of a crime. Rather, a vehicle is only eligible to be confiscated if the owner has outstanding ticket debt. So, unlike *Bennis*, Chicago's vehicle immobilization program is tied directly and solely to the owner's inability to pay, not an underlying violation of the law. Indeed, a motorist could literally violate the City's parking and traffic laws every single day and the vehicle used to commit those violations would not be subject to impoundment so long as the ticket debt is paid.

Also unlike in *Bennis*, Chicago's impoundment scheme is not tied to the vehicle that was involved in the ordinance violation. Any vehicle owned or even co-

owned by someone who owes ticket debt to the City is subject to being impounded and sold. Petitioner Goree's vehicle, for example, was towed and sold because the co-signor on his vehicle had outstanding ticket debt from a different vehicle. See supra at 11-12. According to the Seventh Circuit, it is perfectly acceptable under the Constitution for Goree to lose his vehicle without compensation as punishment for violations engaged in by someone else in a different vehicle. That cannot be right. See *One 1958 Plymouth Sedan* v. *Com. of Pa.*, 380 U. S. 693, 699 (1965) ("There is nothing even remotely criminal in possessing an automobile. It is only the alleged use to which this particular automobile was put that subjects [the owner] to its possible loss.").

Lastly, the impact and intent of the law is not to permanently confiscate an instrument of a crime as was the case in *Bennis*. Rather, the City allows the owner to redeem the vehicle—literally returning the "instrument" of the violation that is purportedly being "forfeited"—by simply paying the unpaid ticket debt. That is not a forfeiture. It is an inducement to extract payment. See *Coal. on Homelessness* v. *City & Cnty. of San Francisco*, No. A164180, 93 Cal. App. 5th 928, 948-49 (2023) (rejecting the argument that impounding vehicles for unpaid ticket debt is tantamount to a "progressive forfeiture" scheme authorized under the Constitution "because the statute allows an owner to recover a vehicle by paying outstanding penalties") (emphasis in original) (citing *Fla.* v. *White*, 526 U. S. 559 (1999)).[3]

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[3] The Seventh Circuit also relied on *Tate* v. *District of Columbia*, 627 F. 3d 904 (CADC 2010), which upheld a similar practice in

In short, *Bennis* and the "punitive and remedial jurisprudence" it relies on do not hold that the government can temporarily seize property to collect fines and penalties that, if they remain unpaid, result in an uncompensated "forfeiture." See *Bennis*, 516 U. S. at 442 (permanent forfeiture of vehicle used to solicit prostitute); *J. W. Goldsmith, Jr., Grant Co.* v. *United States*, 254 U. S. 505 (1921) (permanent forfeiture of vehicle used to conceal untaxed distilled spirits with intent to defraud the government); *Calero-Toledo* v. *Pearson Yacht Leasing Co.*, 416 U. S. 663 (1974) (permanent forfeiture of yacht transporting marijuana); *Van Oster* v. *State of Kansas*, 272 U. S. 465 (1926) (permanent forfeiture of vehicle used for the illegal transportation of liquor); *Dobbins' Distillery* v. *United States*, 96 U. S. 395 (1877) (permanent forfeiture of property used to fraudulently avoid federal alcohol taxes); *The Palmyra*, 25 U. S. 1 (1827) (permanent forfeiture of vessel engaged in privateering).

In each of these cases, the forfeiture was punishment for underlying criminal conduct, not the nonpayment of fines that were themselves the punishment for that misconduct. None involved the temporary seizure of property that could be reclaimed by simply paying a debt owed to the government. Certainly, none of them endorsed the practice of confiscating a

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Washington, D.C. App. 5. The plaintiff in *Tate* was unrepresented by counsel and the court addressed her takings claim in a single paragraph that simply relied on *Bennis* with little analysis. *Id*. at 909-10. The fact that two courts of appeals have upheld this practice, one of which without fulsome briefing on the issue, makes it all the more important for this Court to grant this petition and define the limits of a municipality's ability to confiscate private property under its police power.

vehicle in an effort to collect fines and penalties for violations associated with a different vehicle. To the contrary, the forfeiture in all these cases was permanent and tied directly to a violation of the law: the property was used in the commission of a crime and was unconditionally forfeited. But here, the taking of vehicles is too far removed from any underlying violation. A motorist who is able to afford paying his fines will never have his vehicle taken no matter how many times it is used to break the law. Forfeiture is directly and solely the result of nonpayment. Nothing in American jurisprudence allows the uncompensated taking of property from our poorest citizens simply because of their inability to pay.

III. This Court should grant the petition to define the constitutional limits on the government's ability to confiscate property under its police power.

There must be a limit on the government's ability to confiscate property under its police power. "[A] city's exercise of its police powers can go too far, and if it does, there has been a taking." *John Corp.* v. *City of Houston*, 214 F.3d 573, 578 (CA5 2000) (citing *Pennsylvania Coal*, 260 U. S. at 415). "Even when the initial seizure and retention of property is properly done pursuant to the police power, the police power does not insulate the government from liability for a taking if the property is not returned after the government interest in retaining the property ceases." *Jenkins* v. *United States*, 71 F.4th 1367, 1373-74 (CAFC 2023).

So, when is the City's interest here fulfilled? The City says its interest in enforcing its parking and traffic laws never ceases. It can take every vehicle

someone ever owns in perpetuity and its punitive goals will never be achieved, even though those vehicles are worth vastly more than the fines and penalties for the underlying violation. But that cannot be the case. There must be some limit. Where, like here, the punishment for parking or traffic violations has been brought to judgment by an independent judicial body, the government's interest in enforcing those laws can extend only as far as the fines and penalties set forth in that judgment. The City itself admits this to be the case:

> If the vehicle owner satisfies the penalties, the immobilized or impounded vehicle is returned because the City's punitive goals relating to the underlying offenses have been achieved.

City's Appellate Brief at 10 (CA5 ECF No. 25).

The City is right. Its "punitive goals relating to the underlying offenses have been achieved" once "the vehicle owner satisfies the penalties." This is true regardless of how the penalties are satisfied: whether by payment or seizure and sale of property up to the amount owed. Either way, the penalties are satisfied and the City's "punitive goals relating to the underlying offenses" are achieved. At that point, the City's interest in retaining the vehicle—or the excess sales proceeds from the vehicle—ceases and must be returned to the owner. Keeping anything more exceeds any interest in enforcing its parking and traffic laws and a taking has occurred.

The Seventh Circuit seemingly agrees with this principle as well, but missed the forest for the trees. The Seventh Circuit acknowledged that "[o]nce

owners pay their ticket debt, they've internalized the cost of their infractions and there's no need for the City to continue to hold their vehicles." App. 17. But this is also true when the City seizes a vehicle worth equal to or more than the fines and penalties. Upon seizure and sale of the vehicle, the owner has "internalized the cost of their infractions" and "there's no need for the City to continue to hold" any surplus realized in excess of the ticket debt. The Seventh Circuit wrongly failed to explain why payment of the fines and penalties constitutes "internaliz[ation]" but confiscation of a vehicle worth far in excess of the same fines and penalties does not.

The Seventh Circuit also stated that the "purpose of the forfeiture scheme is to target individuals who—by refusing to pay—have hitherto evaded punishment for their traffic and parking infractions." App. 5. "Without this graduated forfeiture scheme, vehicle owners who repeatedly violate the traffic code could evade punishment." *Ibid*. This is plainly untrue. Once the City seizes property worth equal to or more than the fines and penalties, the vehicle owner has no longer "evaded punishment." It has lost property equal to or great than the fines and penalties assessed by the administrative court. The vehicle owner has been punished and the City no longer has any punitive interest in retaining more than what was owed on the judgments entered by the administrative court. In other words, the City's police power is limited to enforcing "the legal charges thereon. The overplus belongs to the owner[.]" *Wilcox*, 15 N.W. at 440. This commonsense limitation comports with historical practice and the common law going back centuries. See supra at 13-15.

This case presents a problem that affects tens of thousands of motorists in Chicago and other cities across the country. This Court should grant the petition and decide whether the Takings Clause prevents a municipality from funding its operations by conducting confiscations that far exceed the amount of the minor parking and traffic fines and penalties assessed against the owner.

CONCLUSION

This Court should grant certiorari.

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