No. 25-1098

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; URT UNITED ROAD TOWING, INC.,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

RESPONDENTS' BRIEF IN OPPOSITION

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QUESTION PRESENTED

A Chicago ordinance authorizes the use of a graduated forfeiture process against vehicle owners who are found liable for multiple traffic code violations and fail to pay their penalties. This enforcement process may culminate in the immobilization and impoundment of the owner's registered vehicles. If a vehicle is impounded and the owner still does not comply, the ordinance permits the City to dispose of the vehicle rather than bear the burden of indefinitely storing it.

The question is whether the ordinance, on its face, violates the Takings Clause of the Fifth Amendment.

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INTRODUCTION

Petitioners brought this lawsuit under the Takings Clause to challenge a City ordinance that authorizes immobilization, impoundment, and disposal of vehicles to enforce traffic laws and induce compliance when violators repeatedly fail to satisfy their punishments. The Seventh Circuit, relying on principles that have been solidly established since this Court's decision in *Bennis v. Michigan*, 516 U.S. 442 (1996), ruled that the ordinance, which was an

exercise of the power to punish, did not implicate the Takings Clause.

Petitioners frame the question presented as involving the relationship between the Takings Clause and law enforcement authority, and focus their arguments on the City's purported "practice" of selling cars that are unclaimed from impound. But this case is an exceedingly poor vehicle to address that question.

To start, the Seventh Circuit applied its decision in *Hadley v. City of South Bend*, 154 F.4th 549 (7th Cir. 2025), in which a petition for certiorari is also currently pending. *Hadley* rejected a claim under the Takings Clause when law enforcement damaged the plaintiff's home while executing a search warrant. *Id.* at 551-52. Although we agree with the respondents in *Hadley* that this Court's review is not warranted there, either, petitioners do not even cite *Hadley* or grapple with the analysis the Seventh Circuit conducted.

Even apart from that problem, this case is a poor vehicle. Petitioners fail to acknowledge that they exclusively pleaded a facial challenge to the City's law. That means this Court's analysis would be limited to whether the mere enactment of the City's ordinance is unconstitutional, such that it is invalid in all its applications. And here, petitioners' facial claim easily fails that test – without any need for this Court to examine the scope of the Takings Clause. Indeed, petitioners do not even mention the standard for the review of a facial challenge, let alone make any argument that the law is facially unconstitutional.

Instead, petitioners discuss various situation-specific applications of the City's ordinance that they argue violate the Takings Clause. But their examples of particular factual scenarios do not advance a facial challenge, as the Seventh Circuit correctly held. And elsewhere, moreover, petitioners urge the Court to rely on legislative findings and the purpose behind the enactment of the City's ordinance to decide that the system is a means of debt collection and not an exercise of law-enforcement authority. That position further undermines their bid for certiorari; if the ordinance is not an exercise of law enforcement authority, then the question petitioners present concerning the intersection of the Takings Clause and law-enforcement authority does not arise.

In addition, there is no conflict in the circuits or with this Court's precedent on the issue the Seventh Circuit decided, which was that the City's enforcement system, akin to a forfeiture system, does not implicate the Takings Clause. Pet. App. 5-6 (citing *Bennis*, 516 U.S. at 453). Petitioners concede that there is no disagreement in the courts of appeals about whether a punitive law enforcement measure of this type constitutes a taking. The Seventh Circuit's holding also does not conflict with this Court's precedent. *Tyler v. Hennepin County*, 598 U.S. 631 (2023), held that the state's retention of the surplus from a tax sale was a taking because it compelled the taxpayer to make a greater contribution to the public fisc than she owed; this Court's opinion did not address the power to punish, as this case does. And, contrary to petitioners' assertion, the decision below is fully consistent with *Bennis*, which did involve the

power to punish.

The petition should be denied.

STATEMENT

Section 9-100-120 of the Municipal Code of Chicago ("MCC") authorizes the City to immobilize, tow, and ultimately dispose of unclaimed vehicles as a means of punishing non-compliance with the City's parking, standing, and automated traffic and speed enforcement ordinances. MCC § 9-100-120(a). Pursuant to the ordinance, the City disposed of two impounded vehicles registered to petitioners. It sold the vehicle registered to O'Donnell for scrap value, and relinquished to a lienholder the vehicle registered to Goree. R. 1 ¶¶ 59, 61.[1] Petitioners alleged in their complaint that the ordinance's entire system of enforcement – from the initial immobilization through the disposal of unclaimed vehicles – is facially unconstitutional under the Takings Clause. R. 1 ¶¶ 71-81.

The enforcement process begins when a vehicle owner receives a ticket for certain qualifying traffic code violations. *See* MCC § 9-100-120(b). Such violations include, among others, speeding, driving in bus lanes, obstructing traffic, illegal parking, red-light camera enforcement, and registration failures. *See* MCC § 9-100-020. The owner may either pay the ticket, enter into an installment plan, or contest the ticket through a hearing at the City's Department of

[1] We cite the district court record as "R. __."

Administrative Hearings. MCC §§ 9-100-040(a), 9-100-045, 9-100-050, 9-100-055; *see, e.g.*, R. 30-1 at 3 (initial Notice of Violation). In addition to traditional installment plans, a "Hardship Installment Payment Plan" is available for those who have a "household income of 300 percent or less than the Federal Poverty Level" or are "experiencing a financial emergency or financial uncertainty." MCC § 9-100-160. And a "Fresh Start Installment Payment Plan" is offered "for eligible bankruptcy debtors." MCC § 9-100-160(b)(4). The terms of installment plans include monthly payments as low as $25. *See* https://parkingtickets.chicago.gov/PaymentPlanWeb/FrequentlyAskedQuestions (last accessed July 1, 2026). Once a person begins an installment plan, additional penalties are not imposed for the underlying violation while the owner makes payments, and "the vehicle owner's vehicles shall not be subject to immobilization and impoundment . . . as long as the vehicle owner is in compliance with the plan." MCC § 9-100-160(e).

If a vehicle owner challenges their ticket and is unsuccessful, or if they ignore the ticket by neither paying nor contesting it, a determination of liability is entered against them. MCC §§ 9-100-050(a), 9-100-050(d), 9-100-090. Determinations of liability attach to the owner, not to a particular vehicle. *See* MCC §§ 9-100-030, 9-100-045, 9-100-060(a)(1). When an owner accumulates either three or more final determinations of liability or two final determinations that are more than one year old, and the owner has not paid the penalties resulting from those determinations, their

registered vehicles become eligible for immobilization – *i.e.*, "booting." MCC § 9-100-120(b). Once eligible, a notice of "impending vehicle immobilization" is sent to the registered owner, listing the owner's unsatisfied final determinations of liability and the registration numbers of the owner's vehicles. *Id.* The owner has 21 days from the date of the notice to either pay the outstanding amount due, enter into an installment plan, or request a hearing to disprove liability. *Id.* If the owner takes no action, their registered vehicles are placed on the immobilization list and may be immobilized at any time thereafter. *Id.*

Once a vehicle is immobilized, the owner has 24 hours to do at least one of the following: pay the outstanding amount due associated with their determinations of liability, request additional time to comply, or enter into an installment plan. MCC §§ 9-100-120(c)-(d). The owner, upon written request, also has the right to a hearing to determine whether the immobilization was erroneous. MCC § 9-100-120(e). A notice affixed to the vehicle at the time of immobilization sets out these options. MCC § 9-100-120(c). If the owner takes none of these steps, then the vehicle may be impounded. *Id.* Respondent URT is a private contractor that tows such vehicles for the City. R.1 ¶ 54.

Once a vehicle is impounded, the owner is sent an additional notice by certified mail. MCC § 9-100-120(f). The notice informs the owner that, within 21 days of the notice date, the owner has the right to request an administrative hearing to determine if the impoundment was erroneous. MCC §§ 9-100-120(e)-

(f). The notice also informs the owner that if a vehicle is not claimed within 21 days from the date of the notice, the City may sell or otherwise dispose of the vehicle. MCC § 9-100-120(f). Owners are also entitled, upon request, to a 15-day extension of the period in which to claim their vehicle. MCC § 9-100-120(f). If a vehicle remains unclaimed after that period has elapsed, the City is authorized to dispose of the vehicle, including by selling it at auction or for scrap value. *Id.* The City allows owners who believe their vehicles were wrongly disposed of to file a claim for monetary compensation with the City Clerk's office. *See* MCC § 2-12-060.

Petitioners filed a putative class action against the City and URT, claiming that the process prescribed by section 9-100-120, on its face, violates the Fifth Amendment's Takings Clause. R. 1.[2] Petitioners did not challenge the constitutionality of the City's traffic code enforcement system as applied to them, nor did they claim that the ordinance violates the Due Process Clause or the Eighth Amendment's prohibition on excessive punishment.

Respondents moved to dismiss the complaint for failure to state a claim. R. 20; R. 47. The district court granted the motions and entered judgment for the City and URT. Pet. App. 9-18; R. 59. The district court held that the City's traffic code enforcement

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[2] Petitioners also alleged a claim based on the Illinois Constitution and derivative state-law unjust enrichment claims. R. 1 ¶¶ 71-75, 82-91. The petition does not challenge the disposition of those claims.

system "constituted the type of forfeiture process" that is "firmly fixed in the punitive and remedial jurisprudence of the country," which does not constitute the sort of seizure of private property that qualifies as a taking for public use. Pet. App. 16-17. Petitioners appealed, and the Seventh Circuit affirmed. Pet. App. 1-8. The Seventh Circuit held that the process set forth in the City's ordinance is a punitive "exercise of the City's police power to enforce its traffic code, so the Takings Clause doesn't apply." Pet. App. 5, 7. The court also explained that most of petitioners' arguments were irrelevant to their facial claim because they concerned situation-specific applications of the City's ordinance. Pet. App. 6.

REASONS FOR DENYING THE PETITION

The petition should be denied. The case is a poor vehicle for review of the question presented, and there is no conflict in the courts of appeals or with decisions of this Court.

I. This Case Is a Poor Vehicle for Review of the Question Presented.

Petitioners ignore the analysis of the Seventh Circuit; do not acknowledge that their claim is purely a facial challenge, which limits this Court's review; and argue for a narrow interpretation of the ordinance as merely a form of debt collection instead of an exercise of the police power. The petition, therefore, is a poor vehicle for this Court's review.

A. Petitioners do not grapple with the analysis of the Seventh Circuit.

The Seventh Circuit's holding regarding the Takings Clause cited its prior decision in *Hadley v. City of South Bend*, 154 F.4th 549 (7th Cir. 2025). *Hadley* contained the Seventh Circuit's extensive analysis of this Court's Takings Clause precedent and held that while not every action under a government's police power may bar a takings claim, the exercise of "law-enforcement authority" is a "classic example" of police power that does "foreclose takings claims." *Id.* at 554-56. On that basis, the court held that plaintiff had no claim under the Takings Clause when law enforcement damaged her home while executing a search warrant. *Id.* at 551-52. In the present case, the Seventh Circuit "[a]ppl[ied] that principle" to the City's traffic code enforcement system and, citing *Bennis*, held that the City's enforcement system was a "form of punishment" and thus the kind of "exercise of the City's police power" that "isn't a taking." Pet. App. 5.

The petition does not mention the Seventh Circuit's reliance on *Hadley*, acknowledge almost any of the cases discussed in *Hadley*, or note that a petition for certiorari is currently pending in *Hadley* (No. 25-1158). Thus, even if the issue raised by *Hadley* were to merit this Court's attention, this case would be the wrong vehicle in which to address it.[3]

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[3] We agree with the respondent in *Hadley* that there is no circuit split requiring resolution by this Court of the question presented there. *See* No. 25-1158, Brief in Opposition to the Petition for a

Writ of Certiorari, 5-15. Every court of appeals that has considered the question whether a taking occurs when the government exercises a classic law-enforcement power has concluded that it does not. *See Hadley*, 154 F.4th at 555 (discussing cases).

Even the circuits that have expressed skepticism of a broad police power exception to the Takings Clause have accepted a narrower one. *See, e.g.*, *Pena v. City of Los Angeles*, 158 F.4th 1033, 1040 (9th Cir. 2025), *cert. pending* (25-1163) ("it is not necessary to decide whether there exists a categorical police-power exception to the Takings Clause"); *Slaybaugh v. Rutherford County*, 114 F.4th 593, 604 (6th Cir. 2024) ("we need not conclusively decide whether another privilege . . . could also exempt law enforcement from takings liability"). Moreover, in the time since two justices of this Court wrote that the issue of "how the Takings Clause applies when the government destroys property pursuant to its police power" should percolate further, *see Baker v. City of McKinney*, 145 S. Ct. 11, 12 (2024), the Seventh Circuit has clarified that its position is narrower than its past decisions might have suggested. *Compare Johnson v. Manitowoc County*, 635 F.3d 331, 336 (7th Cir. 2011) (when governments act "under the state's police power," a "Takings Clause claim is a non-starter") *with Hadley*, 154 F.4th at 556 ("*Johnson* does not necessarily foreclose takings claims outside the 'classic example' of police power: exercising law-enforcement authority."). Such ongoing refinement signals that the issue continues to benefit from further percolation in the courts of appeals.

We further note that petitioners here do not cite any of these cases or the statement concerning the denial of certiorari in *Baker*. And as even the *Hadley* petitioner suggests, petitioners' claim here fails notwithstanding *Hadley*. *See* No. 25-1158, Reply in Support of Certiorari, 4 n.1.

B. Petitioners' claim is exclusively a facial challenge, a fact that the petition obscures.

This case is also a poor vehicle because it presents exclusively a *facial* challenge to the City's ordinance – a fact that the petition never directly acknowledges. But the nature of the claim is highly significant. A facial challenge constrains the Court's review – the only question on the merits is whether petitioners have demonstrated that there exists "no set of circumstances . . . under which the [challenged law] would be valid." *United States v. Salerno*, 481 U.S. 739, 745 (1987); *see Keystone Bituminous Coal Association v. DeBenedictis*, 480 U.S. 470, 494 (1987) (for a facial takings challenge, the "mere enactment" of the law must violate the Constitution). Indeed, in the takings context, this court has specifically "recognized an important distinction between a claim that the mere enactment of a statute constitutes a taking and a claim that the particular impact of government action on a specific piece of property" caused a taking, explaining that the distinction is "critical" because "the constitutionality of statutes ought not be decided except in an actual factual setting that makes such a decision necessary." *Keystone Bituminous Coal Association*, 480 U.S. at 494 (citation omitted). Because this case presents solely a facial challenge to the City's ordinance, it is a poor vehicle for this court's review of the question presented.

The petition does not cite the standards for review of a facial challenge, nor does it make any attempt to

show that the "mere enactment" of the ordinance caused a taking such that it is unconstitutional in all of its applications. That waiver is reason enough to deny the petition.

Petitioners' facial challenge also fails regardless of the underlying constitutional question presented. Nothing about the "mere enactment" of the City's enforcement system caused the taking of any property. No property was taken by the ordinance's mere passage because it just provided the City the means by which to enforce its traffic laws. For example, when a vehicle owner accumulates multiple outstanding determinations of liability, their registered vehicles are added to an "immobilization list" and become eligible for booting, MCC § 9-100-120(b), but the actual immobilization of an eligible vehicle may never take place. As another example, the ordinance states that when a vehicle is impounded and not claimed within the allotted time, "the vehicle *may* be sold or otherwise disposed of." MCC § 9-100-120(f) (emphasis added). The ordinance, therefore, permits the City to indefinitely impound affected vehicles. Petitioners' complaints about how the City disposes of unclaimed vehicles, and what happens to any sale proceeds, are not the result of the mere enactment of the ordinance, but certain potential applications of the law.

Rather than acknowledge the facial nature of their claim, the petition proceeds through various hypothetical applications of the ordinance that

petitioners argue would be unconstitutional.[4] The Seventh Circuit rejected many of these same arguments because they were "situation-specific arguments" that did not "advance [petitioners'] facial challenge." Pet. App. 6. The petition merely repeats many of the arguments while ignoring their irrelevancy to a facial challenge. For example, a running theme throughout the petition is that the City's enforcement system punishes the inability to pay. Pet. 18. But as the Seventh Circuit correctly recognized, that argument could not support facial invalidity because even if some forfeitures under the ordinance result "from an inability to pay, that's not necessarily true in every case"; one could "imagine an owner who is able to pay but decides not to." Pet. App. 6. Indeed, petitioners have never even alleged that they themselves are unable to pay.[5]

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[4] The petition narrows the scope of petitioners' claim to such a degree that it hardly resembles the claim litigated below. Petitioners' complaint sought to enjoin the City from even *towing* vehicles pursuant to section 9-100-120, and proposed a class of "[a]ll vehicle owners who had their vehicles impounded by the City of Chicago pursuant to MCC § 9-100-120." R. 1 ¶¶ 64, 73-75. The petition, however, overwhelmingly focuses on what the City does with any proceeds from the subset of unclaimed vehicles sold from impoundment for a profit. *See, e.g.*, Pet. 15 ("Petitioners here have a traditional property right in the surplus value of their vehicles"); Pet. 22 ("Keeping anything more [than the penalties] exceeds any interest in enforcing its parking and traffic laws and a taking has occurred."). That focus concerns only a smaller subset of vehicle owners who are punished pursuant to certain applications of section 9-100-120.

[5] The petition states that O'Donnell was "unable to pay" his

Another scenario petitioners identify is one where the City immobilizes and impounds an owner's vehicles even when the owner used a different vehicle to violate the law or when the owner was not the driver who broke the law. Pet. 19. But the Seventh Circuit correctly explained that such arguments do not advance petitioners' facial challenge, Pet. App. 6, because, in many applications of the ordinance, the impounded vehicle *was* the vehicle used to violate the law, and the vehicle's owner was the driver who committed the violation.[6]

Similarly, petitioners' discussion of *Tyler v. Hennepin County*, 598 U.S. 631 (2023), and their arguments about the City not returning any profit from the sale of impounded vehicles, are irrelevant to a facial challenge. Pet. 13-18. Such arguments are premised on the incorrect assumption that there is always a "surplus value" when the City targets a vehicle owner for punitive enforcement. Pet. 13, 15. But vehicles impacted by the ordinance can be immobilized and/or impounded and then released to the owner or held *without* disposal. *See* MCC § 9-100-120(f). In those applications of the ordinance, there

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penalties, Pet. 11, but that statement is unsupported by the record. The only record citation petitioners include does not support their assertion. *See* R. 1 at ¶ 59.

[6] Besides, this Court routinely rejects such innocent-owner defenses. *See, e.g.*, *Calero-Toledo v. Pearson Yacht Leasing Co.*, 416 U.S. 663, 683 (1974) ("the innocence of the owner of property subject to forfeiture has almost uniformly been rejected as a defense"); *Bennis*, 516 U.S. at 451 (there is "well-established authority rejecting the innocent-owner defense").

are no sale proceeds at all. In addition, when the City does dispose of unclaimed vehicles, it is common that such abandoned vehicles are in a state of disrepair such that their nominal scrap values do not generate enough proceeds to even recoup the costs the City expended to immobilize and store the vehicles. Then, too, there are no excess proceeds. Disposal for scrap value is simply a method the City uses to eliminate the burden and cost of indefinitely storing unclaimed vehicles without sacrificing the ongoing effort to carry out the owner's punishment. In short, because petitioners chose to exclusively pursue a facial challenge, it is irrelevant that some hypothetical situation-specific applications of the ordinance might result in sales that yield surplus value.

C. Petitioners' preferred interpretation of the ordinance avoids the constitutional question presented.

The petition should also be denied because petitioners' arguments advance a narrow interpretation of the City's ordinance that avoids the key constitutional question concerning the relationship between the Takings Clause and punitive law-enforcement authority, making the case a poor vehicle for this Court's review.

Petitioners consistently argue that the ordinance is not an exercise of police power to punish violators of City's traffic laws, but a mere debt-collection scheme. *See, e.g.*, Pet. 10, 18. Petitioners would have this Court review the history and purpose behind the enactment of certain provisions of section 9-100-120

to decide that, on facts specific to Chicago's traffic code enforcement system, the ordinance is not a punitive law-enforcement measure at all. *See* Pet. 10-11 (citing to certain legislative findings for the purported reason the Chicago City Council enacted the ordinance).

But of course, if this Court were to engage in this type of analysis and somehow agree with petitioners' characterization of the ordinance as purely a means of debt collection, then the Court would never even reach the question presented concerning the intersection of the Takings Clause and law-enforcement authority. Accepting petitioners' arguments would therefore lead this Court to issue a narrow decision about the nature of the City's ordinance without resolving the broader constitutional question.[7]

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[7] Petitioners' argument that the ordinance is not a punitive police powers exercise is also baseless. The ordinance explicitly states that it is a law-enforcement mechanism: the system exists "for the purpose of enforcing the parking, standing, compliance, automated traffic law enforcement system, [and] automated speed enforcement system ordinances of the traffic code." MCC § 9-100-120(a). As the Seventh Circuit explained, the ordinance is a punitive, "law enforcement measure" and not "exclusively a debt-collection mechanism"; and it is "a feature, not a bug, that § 9-100-120 both 'raises money and improves compliance with traffic laws.'" Pet. App. 6 (quoting *Idris v. City of Chicago*, 552 F.3d 564, 566 (7th Cir. 2009)); *see also* Pet. App. 5 ("§ 9-100-120's function is to enforce the City's traffic code" and is therefore a "law enforcement forfeiture scheme").

II. There Is No Conflict for This Court to Resolve.

A. Petitioners concede there is no conflict in the circuits on the narrow question the Seventh Circuit decided.

The Seventh Circuit held that "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." Pet. App. 5. As the court explained, the City's enforcement system is a "form of punishment," and without the City's "graduated forfeiture scheme, vehicle owners who repeatedly violate the traffic code could evade punishment." Pet. App. 5. And, because "§ 9-100-120's function is to enforce the City's traffic code, it's the kind of law enforcement forfeiture scheme 'firmly fixed in the punitive and remedial jurisprudence of the country' [that] does not constitute a taking." Pet. App. 5-6 (quoting *Bennis*, 516 U.S. at 453).

There is no disagreement among the courts of appeals about this principle. The D.C. Circuit rejected a takings challenge to a materially similar traffic code enforcement system, likewise holding that such a "graduated forfeiture process" was "punitive" and did "not constitute a taking without compensation violative of the Fifth Amendment." *Tate v. D.C.*, 627 F.3d 904, 909-10 (D.C. Cir. 2010) (citing *Bennis*, 516 U.S. at 453); *accord Missud v. California*, 538 F. App'x 809-10 (9th Cir. 2013) (affirming district court's

holding that a city's authority to tow cars for failure to pay tickets was an exercise of police power, and not a taking for public purposes). And other courts of appeals have relied on the same rationale to reject takings challenges to law-enforcement forfeitures and seizures in comparable factual contexts. *See, e.g.*, *United States v. Droganes*, 728 F.3d 580, 591 (6th Cir. 2013) (Takings Clause "is not implicated" by the "forfeiture of property under the government's police power"); *AmeriSource Corp. v. United States*, 525 F.3d 1149, 1153 (Fed. Cir. 2008) ("seizure of goods suspected of bearing counterfeit marks is a classic example of the government's exercise of the police power," which "has not been regarded as a taking"). Thus, those circuits that have considered the issue agree that when the exercise of police power involves the power to punish, there is no taking.

Petitioners concede there is no conflict in the circuits. In fact, they assert that the *agreement* between the circuits on this issue "makes it all the more important for this Court to grant this petition." Pet. 19-20 n.3. But an issue that only a handful of circuits have considered, and on which they agree, plainly does not warrant certiorari.

Nor, contrary to petitioners' insinuation, is the narrow question the Seventh Circuit decided so consequential as to warrant this Court's review. While petitioners attempt to obtain certiorari by scaremongering that the Seventh Circuit's takings analysis lacks a "limiting principle" and could lead to "absurd results," Pet. 5-6, 22, this Court has thoroughly explored the constitutional guardrails for

the government's power to punish. For example, it is well established that punitive forfeiture proceedings are limited both by the Due Process Clause of the Fourteenth Amendment, *see Bennis*, 516 U.S. at 453, and by the Eighth Amendment, *see Austin v. United States*, 509 U.S. 602, 609 (1993); *Timbs v. Indiana*, 586 U.S. 146, 150 (2019); *Pung v. Isabella County, Michigan*, No. 25-95, Slip Op. at 12 (U.S. June 23, 2026). Indeed, the very purpose of the Excessive Fines Clause is to "limit the government's power to punish." *Austin*, 509 U.S. at 609-10. By contrast, this Court has never held that the Takings Clause constrains the government's punitive law-enforcement authority.

B. The Seventh Circuit's decision does not conflict with this Court's precedent.

The petition asserts that the decision below conflicts with two decisions of this Court: *Tyler v. Hennepin County*, 598 U.S. 631 (2023), Pet. 13-18; and *Bennis v. Michigan*, 516 U.S. 442 (1996), Pet. 18-21. That is incorrect.

Tyler involved a tax sale of a home for a sum that more than satisfied the original homeowner's tax debt, and this Court held that the state's retention of the surplus from the sale amounted to a taking. 598 U.S. at 638-45. This Court explained that where the government's only interest was "the taxpayer's failure to contribute her share to the public fisc," the Takings Clause was implicated because the taxpayer was compelled to make "a far greater contribution to the public fisc than she owed." *Id.* at 647. Notably, the government in *Tyler* expressly disclaimed any

argument that its actions were punitive. *See* No. 22-166, Brief of Respondents 44-45.

The Seventh Circuit considered *Tyler* and reasoned that "[t]he principle at work in *Tyler* . . . doesn't apply here, where the government enforces laws pursuant to its police power," Pet. App. 7, because the City's system implicates an entirely different line of this Court's jurisprudence – that which concerns the power to punish. *See, e.g.*, *Waters-Pierce Oil Co. v. State of Texas*, 212 U.S. 86, 111 (1909) ("The fixing of punishment for crime or penalties for unlawful acts against its laws is within the police power of the state."). There can be no conflict with a decision of this Court that did not address the law enforcement power to punish.[8]

Petitioners also purport to assert that the Seventh Circuit's decision "is inconsistent with" *Bennis*. *See* Pet. 18-21. But petitioners do not make any such argument. The heading of section II of the petition notwithstanding, the actual arguments contend only that the Seventh Circuit's "reliance on *Bennis* [was]

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[8] Petitioners cite a variety of mostly nineteenth century state-court cases for the proposition that vehicle owners have a property right in the surplus value of their vehicles. Pet. 13-15. None of those cases concern the Takings Clause. Rather, some of the cases merely discuss state statutes that happen to provide for the return of the surplus from the sale of property; others discuss due process rights, and whether the imposition of fines requires adjudication; and others still are tax collection cases, which do not concern punitive police power authority. None of petitioners' miscellaneous cases concerns whether a municipality's exercise of its power to enforce punishments implicates the Takings Clause.

misplaced" and that *Bennis* does not compel the result the Seventh Circuit reached. Pet. 18-21. Arguments about "misapplication of a properly stated rule of law" do not compel this Court's review, and such petitions are "rarely granted." Supreme Court R. 10.

Petitioners are also wrong; the Seventh Circuit's decision is fully consistent with *Bennis*. In *Bennis*, the owner of a vehicle violated state law when he "engaged in sexual activity with a prostitute" inside the car. 516 U.S. at 443. Following his conviction, the car was deemed a public nuisance and forfeited as part of the state's effort "to deter illegal activity that contribute[d] to neighborhood deterioration and unsafe streets." *Id.* at 443-42, 453. The vehicle's co-owner sued. After first rejecting her due process challenge, this Court explained that "if the forfeiture proceeding . . . did not violate the Fourteenth Amendment," then "[t]he government may not be required to compensate [the] owner" pursuant to the Takings Clause because state action of this kind is "too firmly fixed in the punitive and remedial jurisprudence of the country." *Id.* at 453.

Petitioners attempt to assert factual distinctions between the forfeiture proceedings in *Bennis* and the City's traffic code enforcement system, *see* Pet. 18-21, but that misses the point. *Bennis* recognized that a "government may not be required to compensate an owner for property which it has already lawfully acquired under the exercise of governmental authority other than the power of eminent domain," including its authority to punish violators of the law. 516 U.S. at 452. That principle applies with full force

to the challenged procedures here. Petitioners have never claimed that the City unlawfully acquires vehicles when it acts pursuant to the law-enforcement mechanisms provided by section 9-100-120.[9] *Bennis*, therefore, supports the Seventh Circuit's conclusion that the City's system is the kind of law enforcement forfeiture scheme that fits comfortably within the country's punitive jurisprudence. Pet. App. 5-6; *see also Tate*, 627 F.3d at 909 (a system that "both deters drivers from committing traffic and parking infractions in the first instance and induces delinquents to pay penalties once incurred is, like the *Bennis* forfeiture process, firmly fixed in the punitive and remedial jurisprudence of the country").

Beyond that, petitioners' attempts to distinguish the forfeiture proceedings at issue in *Bennis* are unavailing, as the Seventh Circuit ruled. Pet. App. 6-7. Petitioners assert that the City's ordinance is not tied "to an underlying violation of the law," Pet. 18, but it plainly is; the enforcement system operates against vehicle owners who have "evaded punishment for their traffic and parking infractions." Pet. App. 5. Likewise, section 9-100-120 allows the City to target for enforcement any car registered to a liable owner even if not involved in an underlying violation, Pet.

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[9] The City's enforcement system fully complies with due process requirements. *See, e.g.*, *Saukstelis v. City of Chicago*, 932 F.2d 1171, 1172-73 (7th Cir. 1991); *Armstrong v. City of Chicago*, 562 F. App'x 515, 516 (7th Cir. 2014). It provides for notice at every stage of the process and repeated opportunities to contest both the underlying traffic violations and the City's enforcement actions. *See, e.g.*, MCC § 9-100-120(b)-(c); § 9-100-120(e)-(f).

18-19, because it is necessary to achieve its "punitive purpose"; "if the City doesn't place every vehicle registered to an owner on the immobilization list, those with multiple vehicles can continue to drive, thwarting [the] intended effect." Pet. App. 6-7.

There is no conflict with this Court's precedent.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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