No. 25-246

IN THE

Supreme Court of the United States

KENNETH JOHN JOUPPI,

Petitioner,

v.

STATE OF ALASKA,

Respondent.

On Writ of Certiorari to the Supreme Court of Alaska

BRIEF FOR OKLAHOMA GOVERNOR J. KEVIN STITT AS AMICUS CURIAE IN SUPPORT OF PETITIONER

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BRIEF FOR *AMICUS CURIAE* IN SUPPORT OF PETITIONER

INTEREST OF *AMICUS CURIAE* *

Governor J. Kevin Stitt is the Governor of Oklahoma. He has made reform of Oklahoma's civil asset-forfeiture system a priority while emphasizing that forfeiture, when properly used, remains an important law-enforcement tool. Oklahoma law permits law-enforcement agencies to retain forfeited property or proceeds, creating a risk that the prospect of revenue will influence the exercise of forfeiture authority. After years of unsuccessful legislative reform efforts, Governor Stitt called for change and, in January 2026, ordered statewide reporting of forfeitures to increase transparency and accountability.

That experience gives Governor Stitt a distinct perspective on the question presented. Forfeiture can serve legitimate law-enforcement purposes, but political safeguards cannot always counter the financial incentives built into forfeiture regimes. Meaningful judicial enforcement of the Excessive Fines Clause therefore remains essential. Governor Stitt submits this brief to explain why courts must assess proportionality by reference to a defendant's actual wrongdoing, rather than the offense in the abstract, and why that constitutional safeguard is fully compatible with effective law enforcement. Although this case

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* Pursuant to Rule 37.6, amicus curiae states that no counsel for a party authored this brief in whole or in part, and that no person other than amicus curiae or his counsel made a monetary contribution intended to fund the preparation or submission of this brief.

involves a criminal forfeiture, the constitutional rule adopted here will also govern punitive civil forfeitures, including those used in Oklahoma.

INTRODUCTION

Civil forfeiture presents a constitutional problem that ordinary politics cannot always solve. The government may seize private property, keep the proceeds, and use them to fund its own operations, including law enforcement. That creates an obvious financial incentive to pursue forfeiture aggressively and even beyond legal or constitutional restrictions. Oklahoma has spent more than a decade trying to address that incentive. Reform has enjoyed overwhelming public support. Governor Stitt has pressed for change and used his own authority to increase transparency and accountability. Yet the basic incentive remains.

That is why the rule adopted below matters. The Excessive Fines Clause asks whether a forfeiture is grossly disproportionate to the "gravity" of the offense. Alaska determines that gravity largely from the offense as the legislature defined it: how serious the legislature considered the prohibited conduct and what punishment it authorized for that offense. Alaska does not ask primarily how serious the particular defendant's conduct was. Indeed, the court below concluded that no further factfinding was necessary because the legislature had already determined that knowingly bringing even a six-pack of beer into a dry village was serious enough to warrant forfeiture of an aircraft worth $95,000. Whether petitioner's own conduct was part of a broader pattern beyond the six-pack was "not particularly relevant." Under that approach, the legislature's abstract judgment about the offense supplies both the authority for the forfeiture and whether that forfeiture is excessive under the Constitution.

The Excessive Fines Clause requires more than that. It is an independent constitutional limit on the punishment the legislature may authorize, not simply a command to defer to the legislature's own assessment of an offense's seriousness. And that limit must do meaningful work where the incentives surrounding forfeiture are strongest. Oklahoma's experience shows why: when the government can benefit financially from forfeiture, political safeguards may not reliably constrain its use. Legislative judgments deserve substantial deference, but they cannot supply their own constitutional validation. Courts must still consider the defendant's actual offense. That is the independent check the Clause requires.

Recognizing that check does not require weakening forfeiture. Governor Stitt strongly supports forfeiture as a powerful law-enforcement tool. But strong enforcement and meaningful constitutional limits can coexist. The Excessive Fines Clause requires both.

SUMMARY OF THE ARGUMENT

I. Oklahoma provides a concrete example of why political safeguards cannot always control the incentives created by forfeiture. Oklahoma law gives law-enforcement agencies broad authority to seize private property and often allows the seizing agency to retain the property or its proceeds. Those rules have generated hundreds of millions of dollars in forfeiture revenue but have unfortunately produced documented abuses. Yet efforts to reform the system have repeatedly stalled despite broad public support. Governor Stitt has pressed for reform and used his own authority to increase transparency and accountability, but he cannot alter the underlying statutory rules. Oklahoma's experience demonstrates the need for a meaningful constitutional backstop.

II. Alaska's abstract-gravity approach deprives the Excessive Fines Clause of that function. The legislature defines the offense and authorizes the forfeiture; Alaska then measures the offense's gravity largely by the legislature's own assessment of the offense in the abstract. The Excessive Fines Clause requires an independent inquiry into the offense conduct. Maximum statutory penalties are relevant, but courts must also assess the defendant's own culpability in deciding whether a forfeiture is grossly disproportionate.

That distinction matters beyond this criminal case because the same constitutional standard governs punitive civil forfeitures—which are "quasi-criminal in character," *One 1958 Plymouth Sedan* v. *Pennsylvania*, 380 U.S. 693, 700 (1965)—including forfeitures in States like Oklahoma where the financial incentives are pronounced.

III. Conduct-specific proportionality review does not threaten effective law enforcement. Governor Stitt strongly supports forfeiture as an important enforcement tool, and the experience of States such as Utah and Pennsylvania confirms that meaningful proportionality review can coexist with robust forfeiture practices. The constitutional standard is demanding: only grossly disproportionate forfeitures are forbidden. States therefore remain free to use forfeiture aggressively against serious wrongdoing while courts retain authority to police the exceptional case in which the punishment is constitutionally excessive.

ARGUMENT

Oklahoma's experience puts the constitutional question in practical terms. When forfeiture creates financial incentives that the political process cannot reliably correct, the Excessive Fines Clause must remain a meaningful independent check—one that considers the defendant's actual conduct. That constitutional safeguard can coexist with strong, effective law enforcement. Because Alaska's abstract-gravity standard strips the Clause of that independent force, the Court should reverse.

I. OKLAHOMA'S EXPERIENCE SHOWS WHY POLITICAL SAFEGUARDS ALONE CANNOT RELIABLY CHECK EXCESSIVE FORFEITURES.

Oklahoma's decade-long effort to reform civil forfeiture shows the limits of relying on the political process alone to guard against excessive forfeitures. Like many States, Oklahoma allows law-enforcement agencies to retain property or proceeds obtained through forfeiture. That arrangement creates a significant financial incentive to pursue forfeiture as a source of funding. Oklahoma has spent more than a decade considering reforms designed to mitigate that incentive and protect property rights. Those efforts have enjoyed broad public support and, more recently, the backing of Governor Stitt. Yet meaningful legislative reform has repeatedly failed. Governor Stitt has used his own authority to increase transparency and accountability, but executive action can go only so far. Oklahoma's experience demonstrates why meaningful judicial enforcement of the Excessive Fines Clause remains essential.

A. Oklahoma law gives law-enforcement agencies broad authority to seize and forfeit private property—and often allows the agency responsible for the seizure to retain the property or its proceeds. That structure creates what Governor Stitt has called a "powerful incentive" for agencies "to continue generating revenue through the civil asset forfeiture process." Okla. Exec. Order No. 2026-05 (Jan. 30, 2026), perma.cc/8LR9-HYBY.

Oklahoma's drug-forfeiture statute illustrates the breadth of that authority. "Any property or thing of value"—including aircraft, vehicles, vessels, currency, and real property—may be forfeited if it is sufficiently connected to illegal drug activity. Okla. Stat. tit. 63, § 2-503(A)-(C). The required connection can be slight: money found "in close proximity" to drugs or drug paraphernalia is rebuttably presumed forfeitable. *Id.* § 2-503(A)(7). The government need prove the requisite connection only by a preponderance of the evidence, and the owner need not have been convicted of—or even charged with—a crime. *Id.* §§ 2-503(B)-(C), 2-506(G). Once property is forfeited, the law-enforcement agency responsible for the seizure is often entitled to retain the property or its proceeds. *Id.* §§ 2-503(D), (F), 2-506(L).

That ability to retain forfeiture proceeds has generated substantial revenue. Between 2000 and 2023, Oklahoma agencies received more than $154 million through state forfeitures and more than $83 million through federal equitable sharing, under which participating state and local agencies receive a share of federal forfeiture proceeds. In all, Oklahoma law-enforcement agencies took in at least $237 million from forfeitures over that period. Institute for Justice, *Policing for Profit: The Abuse of Civil Asset Forfeiture* 152 (4th ed. 2026), perma.cc/RVR2-JADW.

This Court and individual Members have repeatedly cautioned that these financial incentives require close scrutiny. Because forfeiture is "a source of revenue" to a State, the Court has warned, there is "good reason" to worry that it "may be employed 'in a measure out of accord with the penal goals of retribution and deterrence.'" *Timbs* v. *Indiana*, 586 U.S. 146, 153–54 (2019) (quoting *Harmelin* v. *Michigan*, 501 U.S. 957, 979 n.9 (1991) (opinion of Scalia, J., joined by Rehnquist, C.J.)). It therefore "makes sense to scrutinize governmental action more closely when the State stands to benefit." *Id.* at 154 (quoting *Harmelin*, 501 U.S. at 979 n.9 (opinion of Scalia, J.)). Justice Thomas has likewise observed that, when "the law enforcement entity responsible for seizing the property often keeps it," there are "strong incentives to pursue forfeiture," and "[t]his 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." *Leonard* v. *Texas*, 580 U.S. 1178, 1179–80 (2017) (statement of Thomas, J., respecting denial of certiorari). Justice Gorsuch has noted that the "strong financial incentives to pursue forfeitures" can also "influence how [law-enforcement agencies] conduct them," leading some to "prioritize seizures they can monetize"—such as drug proceeds rather than the drugs themselves—or pursue "low-value items and relatively small amounts of cash" in the hopes that the owners won't expend resources fighting forfeiture. *Culley* v. *Marshall*, 601 U.S. 377, 396 (2024) (Gorsuch, J., joined by Thomas, J., concurring). And Justice Sotomayor has similarly highlighted the "well documented" "abuses of many civil forfeiture systems" that occur when officers "have an incentive to enforce the law in a way that leads to the recovery of fungible property, like cash or cars," and to "target marginalized groups" that are "less likely to have the resources to challenge the forfeiture in court." *Id.* at 406, 415 (Sotomayor, J., joined by Kagan and Jackson, JJ., dissenting).

Oklahoma's experience bears out those concerns. State audits have uncovered forfeited money, vehicles, and firearms that were never inventoried or went missing. Clifton Adcock, *Law Enforcement Seizures Misspent, Missing*, Oklahoma Watch (July 15, 2015), perma.cc/RWX7-DP3R. One assistant district attorney lived rent-free for years in a house his office had obtained through forfeiture and used government funds to pay utilities and repairs; another district attorney's office used forfeiture funds to pay $5,000 toward an assistant prosecutor's student loans. *Ibid.*

The risks are not limited to misuse of forfeiture proceeds. In 2016, a sheriff's deputy in Muskogee stopped Eh Wah, the volunteer tour manager of a Burmese Christian band, for a broken brake light. A search found no drugs or other evidence of drug activity. But the deputy seized more than $53,000, much of it money raised for charity during the tour. After six hours of questioning, the driver was released with only a warning. The district attorney nevertheless sought forfeiture of the money. The government returned it only after the case attracted national attention and the Institute for Justice announced that it would represent the driver. J. Justin Wilson, *Highway Robbery: Burmese Christian Band, Orphanage and Church Fight Civil Forfeiture of $53,000 in Muskogee, Oklahoma*, Institute for Justice (Apr. 25, 2016), perma.cc/HH8D-C9SA.

While Governor Stitt is best aware of the situation in Oklahoma, he knows well that this dynamic is not peculiar to the Sooner State. To offer just one example, in *Snitko* v. *United States*, the Ninth Circuit recounted a federal operation in which agents executed search warrants on a company that rented safe deposit boxes to its customers. 90 F.4th 1250, 1255, 1257–58 (9th Cir. 2024). Agents were instructed, before any individualized assessment of probable cause as to each safe deposit box, to search the boxes, bag any cash exceeding $5,000, and assign the cash a "forfeiture identification number." *Id.* at 1256. The government then initiated civil administrative proceedings "against any box contents that met a minimum monetary threshold of $5,000." *Id.* at 1257–58. A district court preliminarily blocked those proceedings because the government's notice, "put bluntly, provide[d] no factual basis for the seizure of" property found in the boxes owned by the interested customers. *Id.* at 1258. In sum, the federal officers decided what property to try to forfeit based on its value rather than any connection to wrongdoing—precisely what the government's financial incentives would be predicted to produce.

B. Oklahoma has repeatedly tried to reform its forfeiture laws. Beginning in 2015, legislators proposed requiring a criminal conviction before forfeiture, increasing the government's burden of proof, and directing forfeiture proceeds away from seizing agencies. Press Release, *Loveless Introduces Comprehensive Forfeiture Reform Package*, Oklahoma State Senate (Jan. 20, 2016), perma.cc/ZL96-7HCA; Press Release, *Loveless Files Bill To Ensure Due Process in Civil Asset Forfeiture*, Oklahoma State Senate (May 6, 2015), perma.cc/EWK6-9HWV. Those proposals enjoyed broad support. Polling found that 70% of Oklahomans supported requiring a criminal conviction before forfeiture in 2015; by 2016, the figure had risen to 74%. Madison Grady, *Poll: Oklahomans Support Change to Civil Forfeiture Laws*, SoonerPoll (Sept. 24, 2015), perma.cc/U9A2-VVQ9; Bill Shapard, *Support for Civil Asset Forfeiture Reform on the Rise*, SoonerPoll (Aug. 24, 2016), perma.cc/L7LL-DDFW. But the proposals faced stiff opposition from law-enforcement groups and the principal reform bill never received even a hearing. Associated Press, *Oklahoma Asset Forfeiture Reform Faces Stiff Opposition*, KOSU (Feb. 13, 2016), perma.cc/5SKC-T7K3; Josh Eidelson, *Oklahoma Is the Latest State To Consider Curbing Police Power*, Herald-Times (Jan. 31, 2016), perma.cc/5TCT-P7BB; Mack Burke, *Judiciary Committee Refuses To Hear Sen. Loveless' Asset Seizure Reform Bill*, Norman Transcript (Feb. 23, 2016), perma.cc/HGR4-YAF6. Later efforts met much the same fate. Over the past decade, lawmakers have introduced more than a dozen bills addressing forfeiture, most of which never received a committee hearing, with reporting again pointing to opposition from law-enforcement groups as a significant obstacle to reform. Haley Parsley & Keaton Ross, *Oklahoma Police Continue To Seize Millions from Motorists*, Oklahoma Watch (June 25, 2025), perma.cc/599M-G3DD.

Governor Stitt has made reform a priority while emphasizing that forfeiture remains an important law-enforcement tool. In his 2024 State of the State Address, he called it unfair that someone could "have their cash and truck taken for an alleged crime, get acquitted of that crime, but * * * still never get their property back." *Governor Stitt Delivers 2024 State of the State Address*, Oklahoma Governor (Feb. 5, 2024), perma.cc/HUV5-EUY5.

When broader legislative reform again failed, Governor Stitt acted within his own authority. In January 2026, he concluded that "heightened transparency and accountability" were necessary because allowing agencies to benefit from forfeiture proceeds can create "a perverse incentive." Okla. Exec. Order No. 2026-05, *supra*. He ordered every law-enforcement agency in Oklahoma to report annually what property it seized, what happened to that property, and how forfeiture proceeds were used. *Ibid.* Those reports must be provided to the Governor and Legislature and made available to the public. *Ibid.*

That order brings greater transparency and accountability to Oklahoma forfeitures. But it cannot change the substantive rules that create the financial incentive in the first place. Oklahoma law still permits property to be forfeited "without criminal conviction," and agencies may still "retain [the] proceeds." *Governor Stitt Enhances Transparency in Civil Asset Forfeiture Practices*, Oklahoma Governor (Jan. 30, 2026), perma.cc/EXV7-QV62. Altering those rules requires legislation. And although a bill to raise the burden of proof for forfeiture was recently introduced, it died in committee. See *HB3283*, Oklahoma Legislature, perma.cc/YW4N-XUZX.

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Oklahoma's experience thus shows the limits of political safeguards. Despite broad public support, repeated legislative efforts, and Governor Stitt's own actions, the financial incentives built into Oklahoma's forfeiture laws remain. That makes meaningful judicial enforcement of the Excessive Fines Clause all the more important: when political safeguards fall short, the constitutional safeguard must still have real force.

II. ALASKA'S ABSTRACT-GRAVITY STANDARD ELIMINATES THE INDEPENDENT CHECK THE EXCESSIVE FINES CLAUSE REQUIRES.

Oklahoma's experience shows why the Excessive Fines Clause must provide an independent check on forfeiture. The political branches define the conduct subject to forfeiture, determine what property may be taken, and decide what happens to the proceeds. Where those choices create financial incentives to pursue forfeiture, constitutional review cannot simply refer the question of excessiveness back to the same political judgments. Cf., *e.g.*, *Board of Trustees of University of Alabama* v. *Garrett*, 531 U.S. 356, 365 (2001) ("[I]t is the responsibility of this Court, not Congress, to define the substance of constitutional guarantees.").

But that is what Alaska's approach does. The legislature defines the offense and authorizes the punishment. Then, in deciding whether that punishment is excessive, Alaska measures gravity largely by the legislature's assessment of the offense in the abstract. The same legislative judgment thus both authorizes the forfeiture and supplies the principal reason for concluding that it is constitutional.

The Excessive Fines Clause requires an independent inquiry into the defendant's conduct. Legislative judgments about the seriousness of an offense in general matter, but they cannot be the whole measure of whether a specific forfeiture is excessive. That is precisely the approach this Court took in *United States* v. *Bajakajian*, 524 U.S. 321 (1998). The Court asked whether the forfeiture was "grossly disproportional to the gravity of [the] offense," *id.* at 337, and assessed that gravity by looking not only to the penalties authorized by law but also to Bajakajian's own culpability. The statutory penalties were "certainly relevant evidence." *Id.* at 339 n.14. But the Court was clear those penalties were not dispositive, carefully considering the "respondent's culpability relative to other potential violators of the reporting provision." *Ibid.* Indeed, the fact that Bajakajian faced only a fraction of the penalties authorized by law "undercu[t] any argument based solely on the statute." *Ibid.* The statutory penalties are therefore relevant, but they cannot substitute for an assessment of the defendant's own culpability. Accord *State* v. *Timbs*, 169 N.E.3d 361, 372 (Ind. 2021) (on remand from this Court's decision in *Timbs*, applying *Bajakajian* to refuse to allow forfeiture of a vehicle that was an instrumentality of a drug offense after reviewing the defendant's individual culpability).

That framework already gives substantial weight to legislative judgments. Gross disproportionality is a deliberately demanding standard, not an invitation for courts to decide what punishment they would have imposed. *Bajakajian*, 524 U.S. at 336. The Clause does not require strict proportionality or authorize courts to substitute their preferred punishment for the legislature's. But deference cannot mean that the legislature's decision to authorize a punishment also establishes that punishment's constitutionality in every application.

The decision below shows the problem. The Alaska Supreme Court held that further factfinding was unnecessary because "the legislature determined that the harm from even a six-pack of beer knowingly imported into a dry village is severe enough to warrant forfeiture of a [$95,000] aircraft." Pet. App. 25a. Whether petitioner's offense was part of any broader pattern was "not particularly relevant." Pet. App. 26a.

Those statements expose the abstraction. The legislature defined the offense and authorized forfeiture of the aircraft. Its assessment of the offense then supplied the gravity against which that forfeiture was measured. Once that abstract judgment controlled, facts bearing on the seriousness of petitioner's actual conduct became largely irrelevant.

That gets *Bajakajian* backwards. Its "touchstone" is proportionality: a punitive forfeiture "must bear some relationship to the gravity of the offense that it is designed to punish." 524 U.S. at 334. And the Court assessed that gravity by examining Bajakajian's own culpability and comparing him "relative to other potential violators." *Id.* at 337–39 & n.14. The relevant inquiry was the gravity of *his* offense—not the gravity of the most serious conduct the statute could reach.

The stakes of Alaska's approach extend well beyond this criminal case. Punitive civil forfeitures are also "fines" subject to the Excessive Fines Clause.

Austin v. *United States*, 509 U.S. 602, 610, 622 (1993). *Timbs* applied the Clause to the States in a civil-forfeiture case, 586 U.S. at 156–57, and Indiana applied *Bajakajian*'s proportionality standard to that same forfeiture on remand, *Timbs*, 169 N.E.3d 361.

Though this is a criminal case, the meaning of "gravity" adopted here will therefore govern punitive civil forfeitures too. That includes Alaska's surviving in rem forfeitures for this offense, Alaska Stat. § 04.16.220(d)(2), and forfeitures under the law of Oklahoma, its sister States, and the federal government.

The 2016 Oklahoma seizure discussed above—concerning the volunteer tour manager of a Burmese Christian band—illustrates why the distinction between abstract and conduct-specific review matters. That driver, Eh Wah, was carrying more than $53,000 when authorities stopped him for a broken brake light and seized the money, even though a search uncovered no drugs or other evidence of drug activity. See pp. 8–9, *supra*. Viewed in the abstract, forfeiture of $53,000 might be entirely proportionate for a serious drug trafficker carrying narcotics proceeds. But that says almost nothing about whether taking Eh Wah's money was proportionate. The money included funds raised for an orphanage and a church, proceeds from the band's sales, and the band members' personal funds. The gravity of a hypothetical trafficker's offense cannot answer whether forfeiting Eh Wah's money fit his conduct.

That example captures the flaw in Alaska's approach. The legislature's assessment of an offense can inform the gravity inquiry, but it cannot answer whether a particular forfeiture is grossly disproportionate to the conduct actually being punished. The Excessive Fines Clause requires courts to make that judgment independently. Alaska's abstract-gravity standard largely eliminates that inquiry and should be rejected.

III. CONDUCT-SPECIFIC PROPORTIONALITY REVIEW DOES NOT IMPAIR EFFECTIVE LAW ENFORCEMENT.

Governor Stitt strongly supports forfeiture as an important law-enforcement tool. Properly used, forfeiture can disrupt criminal activity, deprive wrongdoers of the proceeds of their crimes, and help law-enforcement agencies protect the public. His reform efforts have therefore sought to "better protect property rights while empowering law enforcement to do their jobs effectively." *Governor Stitt Enhances Transparency*, *supra*. Those goals are complementary, not competing.

Governor Stitt does not contend that forfeiture—or even proceeds retention—is unconstitutional. His point is narrower: because the political process cannot always be relied on to check excessive applications of forfeiture, the constitutional check must remain meaningful. Requiring courts to consider the defendant's actual conduct does just that. It does not weaken forfeiture; it simply ensures that the punishment fits the crime. The Excessive Fines Clause prohibits only forfeitures that are grossly disproportionate—a demanding standard that leaves governments ample room to use forfeiture against serious wrongdoing.

A. Experience elsewhere confirms the point. Utah expressly prohibits forfeitures that are "substantially disproportionate" to the property's use in committing the offense and its value. Utah Code Ann. § 77-11b-303(1)(a); see also *State* v. *Real Property at 633 East 640 North, Orem, Utah*, 994 P.2d 1254, 1257–58 (Utah 2000). In applying that requirement, courts consider the offense, the gravity of the conduct, the value of the property, and any remedial component of the forfeiture. Utah Code Ann. § 77-11b-303(2)(a). Yet Utah continues to use forfeiture as a routine law-enforcement tool. The State reported at least 140 forfeiture cases in 2025, many involving cash seized in narcotics cases. Utah Department of Criminal Justice, *2025 Utah Annual Forfeiture Report* 2 (June 30, 2026), perma.cc/M8DM-KM8W.

Pennsylvania is similar. Its Supreme Court has reaffirmed that proportionality is the "touchstone" of the Excessive Fines Clause and requires courts to consider the harshness of a forfeiture in light of the circumstances of the particular case. *Commonwealth* v. *1997 Chevrolet & Contents Seized from Young*, 160 A.3d 153, 186–88 (Pa. 2017). Pennsylvania also enacted statutory reforms strengthening protections for property owners. See Act of June 29, 2017, P.L. 247, No. 13 (codified at 42 Pa. Cons. Stat. §§ 5801–5808).

Those protections did not cripple forfeiture in Pennsylvania. The State reported more than $6 million in forfeiture revenue in fiscal year 2023–2024—more than it reported immediately after the reforms took effect. Compare Pennsylvania Office of Attorney General, *Asset Forfeiture Report: Fiscal Year 2017–2018* at 7, perma.cc/2PDK-EVEW, with Pennsylvania Office of Attorney General, *Asset Forfeiture Report: Fiscal Year 2023–2024* at 6, perma.cc/R248-DX7U.

Instances in which federal authorities have tried to limit inappropriate forfeitures point the same way. In November 2024, the Department of Justice's Inspector General warned that the Drug Enforcement Administration's transportation interdiction activities created "substantial risks" that agents would "impose unwarranted burdens on, and violate the legal rights of, innocent travelers" and "waste law enforcement resources on ineffective interdiction actions." Department of Justice Office of Inspector General, *Notification of Concerns Identified in the Drug Enforcement Administration's Transportation Interdiction Activities* 1 (Nov. 21, 2024), perma.cc/MGU7-NYG9. That program was discontinued soon thereafter. Instead of chasing constitutionally dubious and ineffective forfeiture, the DEA has apparently focused on disruption of large-scale cartel activity, including the seizure of "nearly $30 million in illicit proceeds and another $30 million in assets" connected to the Sinaloa and Jalisco New Generation Cartels. Press Release, *A Year of Impact: DEA Recognizes its Success in Combatting Drug Cartels and Saving Lives*, DEA (Feb. 3, 2026), perma.cc/FWZ5-DW4W.

These experiences confirm that meaningful proportionality review can protect property rights without preventing law enforcement from using forfeiture effectively.

B. Those examples make sense because conduct-specific review leaves the basic forfeiture power intact. It does not prohibit forfeiture, redirect forfeiture proceeds, or require a criminal conviction before property may be forfeited. It asks only whether the forfeiture imposed in a particular case is grossly disproportionate to the wrongdoing being punished.

That is a demanding standard. Most forfeitures imposed for serious wrongdoing will readily survive review. Reasonable constitutional limits therefore pose no risk of "upend[ing] forfeitures" generally—just as they did not in *Timbs*, when Indiana made essentially that argument. 169 N.E.3d at 376. The Clause operates at the margins, where the value of the property and the defendant's actual culpability are so far out of proportion that the forfeiture becomes constitutionally excessive.

Enforcing that boundary does not disable law enforcement. It ensures that a powerful enforcement tool remains within constitutional limits. Governor Stitt has every interest in preserving forfeiture as an effective means of enforcing the law. His position is not that serious forfeitures are suspect simply because they are serious. It is that effective enforcement and meaningful protection of property rights can coexist. Utah and Pennsylvania show that they can.

The Constitution leaves States broad room to design and enforce forfeiture laws. But that authority remains subject to the Excessive Fines Clause. Requiring courts to consider the actual conduct being punished preserves that balance: it leaves forfeiture available as a strong law-enforcement tool while ensuring that the punishment does not become grossly disproportionate to the offense. That is the balance Governor Stitt has sought in Oklahoma. The Excessive Fines Clause demands no more.

CONCLUSION

The Court should reverse the decision below.

Respectfully submitted.

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