

IN THE SUPREME COURT OF THE UNITED STATES

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No. 25-95

MICHAEL PUNG, PERSONAL REPRESENTATIVE OF THE  
ESTATE OF TIMOTHY SCOTT PUNG, PETITIONER

v.

ISABELLA COUNTY, MICHIGAN

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

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

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Pursuant to Rules 21, 28.4, and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae supporting neither party and requests that the United States be allowed 10 minutes of argument time. Respondent has agreed to cede 10 minutes of argument time to the United States and consents to this motion. Accordingly, if this motion were granted, the argument time would be divided as follows:

30 minutes for petitioner, 10 minutes for the United States, and 20 minutes for respondent.

This case concerns whether the Constitution entitles a taxpayer to more than the surplus proceeds from a government's sale of his property to satisfy an unpaid tax bill. The United States has filed a brief as *amicus curiae* in support of neither party, urging the Court to vacate the judgment below and remand for further proceedings. In the United States' view, the surplus proceeds from the tax sale are just compensation under the Fifth Amendment's Takings Clause, as long as the sale is conducted fairly. The United States contends that a remand is warranted to consider whether the tax sale in this case was conducted fairly. The United States also takes the position that when a government sells a taxpayer's property and refunds the surplus proceeds, its actions do not implicate the Eighth Amendment's Excessive Fines Clause.

The United States has a substantial interest in the questions presented in this case. The principal procedures that the federal government uses for collecting delinquent taxes are administrative levies and civil suits to enforce tax liens. 26 U.S.C. 6331, 6335, 7403. When the federal government seizes and sells a taxpayer's property through an administrative levy, "[a]ny surplus proceeds remaining" after paying expenses and taxes shall be "credited or refunded" to the "entitled" person, which is generally the taxpayer. 26 U.S.C. 6342(b); see 26 C.F.R. 301.6342-1(b). In a civil action to enforce a tax lien, a court "may decree a sale of [the

taxpayer's] property" and "a distribution of the proceeds of such sale according to" the "interests of the parties and of the United States." 26 U.S.C. 7403(c). Accordingly, the United States has a substantial interest in whether the Takings Clause or the Excessive Fines Clause entitles a taxpayer to more than the surplus proceeds from a tax sale.

Although the United States is often a party to cases involving the Takings Clause or the Excessive Fines Clause, see, e.g., Horne v. Department of Agric., 576 U.S. 350 (2015); Arkansas Game & Fish Comm'n v. United States, 568 U.S. 23 (2012); United States v. Bajakajian, 524 U.S. 321 (1998); Austin v. United States, 509 U.S. 602 (1993), it has also frequently participated in oral argument as amicus curiae in such cases, see, e.g., DeVillier v. Texas, 601 U.S. 285 (2024); Sheetz v. County of El Dorado, 601 U.S. 267 (2024); Knick v. Township of Scott, 588 U.S. 180 (2019); Murr v. Wisconsin, 582 U.S. 383 (2017), including in Tyler v. Hennepin County, 598 U.S. 631 (2023), a case that raised issues similar to those raised here. The United States' participation in oral argument could therefore be of material assistance to the Court.

Respectfully submitted.

D. JOHN SAUER  
Solicitor General  
Counsel of Record