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**GIVING CHICAGO'S EXISTING FINE
AND SEIZURE SYSTEM THE BOOT:
THE CONSTITUTIONAL CASE FOR
INCOME-BASED FINES**

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Introduction

Tyson Timbs, a self-proclaimed heroin junkie,¹ was arrested in late 2013 when he attempted to sell approximately \$250 worth of drugs to an undercover police officer.² For the most part, the events following Timbs' arrest adhered to standard procedure: Timbs was charged and pled guilty in Indiana State Court to dealing in a controlled substance and conspiracy to commit theft.³ The trial court sentenced him to one year of home detention,⁴ five years of probation,⁵ a court-supervised addiction treatment program,⁶ and to pay fees and costs totaling \$1,203.⁷ However, at the time of arrest, police officers also seized Timbs' Land Rover SUV⁸—a vehicle he had recently purchased with the proceeds of his late father's life insurance policy.⁹ Despite Timbs' guilty plea and adherence to

the terms of his sentence, the State of Indiana refused to return the vehicle.¹⁰ Thus began Timbs' multi-year journey through the court system in an attempt to regain possession of his SUV.¹¹ Ultimately, the State of Indiana would return the vehicle¹²—and the outcome of Timbs' case would change the constitutional framework for assessing fines in all 50 states.¹³

While *Timbs v. Indiana* stands out as the landmark decision for incorporating the excessive fines clause of the Eighth Amendment as applicable to the states,¹⁴ the circumstances which incited the lawsuit are not unique.¹⁵ When Timbs was arrested, he was impoverished and addicted to drugs.¹⁶ In many ways, the seizure of his SUV represented a total loss of his liberty.¹⁷ Timbs remarked that without a vehicle, he lacked the ability to meet with his parole officer, attend drug treatment, go to work, or rehabilitate from his crimes in any meaningful way.¹⁸ Across America, thousands of people find themselves in similar situations every day: courts often impose astronomically high fines or seize high-valued property as punishment for low-level drug and traffic related offenses.¹⁹ Since 2011, at least 50,000 automobiles belonging to Chicagoans have been seized and sold as punishment for unpaid parking tickets.²⁰ Unsurprisingly, a "vast majority" of these "tow-and-sell" vehicles originate in low-income neighborhoods.²¹

¹ Mark Alesia, *Tyson Timbs, Former 'Junkie' From Marion, is Namesake of Important U.S. Supreme Court Case*, INDYSTAR (Oct. 29, 2018), <https://www.indystar.com/story/news/2018/10/29/tyson-timbs-institute-justice-civil-asset-forfeiture-us-supreme-court-eighth-amendment/1646693002/>.

² *Timbs v. Indiana*, 139 S. Ct. 682, 686 (2019).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Crystal Hill, *After U.S. Supreme Court Win, Recovering Heroin User Might Finally Get Land Rover Back*, INDYSTAR (Feb. 21, 2020), <https://www.indystar.com/story/news/crime/2020/02/21/recovering-heroin-user-might-get-land-rover-after-supreme-court-case/4805893002/>.

¹⁰ *Timbs*, 139 S. Ct. at 686.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 686-87.

¹⁴ *Id.*

¹⁵ J. Justin Wilson, *With Indiana Supreme Court Ruling, Tyson Timbs is One Step Closer to Getting His Car Back*, INSTITUTE FOR JUSTICE (Oct. 28, 2019), <https://ij.org/press-release/with-indiana-supreme-court-ruling-tyson-timbs-is-one-step-closer-to-getting-his-car-back/>.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See Fran Spielman, *City Accused of Violating U.S. Constitution by Towing Without Compensation*, CHICAGO SUN TIMES (Feb. 26, 2020), <https://chicago.suntimes.com/city-hall/2020/2/26/21155079/city-accused-violating-constitution-towing-without-compensation>.

²⁰ Elliott Ramos, *Chicago Seized and Sold Nearly 50,000 Cars Over Tickets Since 2011, Sticking Owners With Debt*, WBEZ (Jan. 7, 2019), <https://www.wbez.org/stories/chicago-seized-and-sold-nearly-50-000-cars-over-tickets-since-2011-sticking-owners-with-debt/1d73d0c1-0ed2-4939-a5b2-1431c4cbf1dd>.

²¹ *Id.*

By incorporating the Eighth Amendment excessive fines clause as applicable to the states, the *Timbs* decision has, to an extent, clarified an area of constitutional law which was once a point of great contention across America.²² However, the impact of the decision has not yet been fully appreciated in Illinois municipalities. By calling upon the language of the Magna Carta, the *Timbs* decision suggests an effective method for ensuring Eighth Amendment protections for all: a graduated, proportionate fine system.²³ This Article argues that municipalities within the State of Illinois—especially the City of Chicago, which has faced significant backlash for its non-graduated fines and frequent property seizures²⁴—should adopt a graduated fine system in order to protect the constitutional rights of its residents and better promote their rehabilitation from crime.²⁵

Part I describes the outcome of *Timbs v. Indiana*, with emphasis on its reference to the language of the Magna Carta, and how such language defines the scope and purpose of the Eighth Amendment.²⁶ Part II details the non-graduated fine system under which many Illinois municipalities currently operate, and explores the issues that such a system has caused for numerous Chicago residents in particular.²⁷ Part III asserts that the language within the *Timbs* opinion suggests the use of a graduated fine system.²⁸ Ultimately, Part III goes on to explain that the implementation of a graduated fine system across Illinois municipalities would better serve the purposes of punishment and effectively protect the constitutional rights guaranteed to all Illinois residents.²⁹

I. *Timbs* and the Incorporation of the Excessive Fines Clause

After initially seizing Timbs' Land Rover SUV during his arrest, the State of Indiana brought a civil

suit demanding the permanent forfeiture of the vehicle.³⁰ The State reasoned that Timbs' use of the vehicle to transport heroin meant that it should not be returned to him.³¹ However, the Indiana trial court denied the forfeiture demand,³² noting that the vehicle cost over \$42,000³³—an amount more than four times the \$10,000 maximum monetary fine allowed for drug convictions in Indiana.³⁴ Such a fine was considered by the court as “grossly disproportionate” to the “gravity of Timbs' offense,” and thereby unconstitutional.³⁵ The Indiana Court of Appeals affirmed the decision;³⁶ however, the Indiana Supreme Court later reversed.³⁷ The Indiana Supreme Court asserted that the excessive fines clause within the Eighth Amendment of the U.S. Constitution did not apply to state impositions.³⁸ Nearly six years after Timbs' arrest, the U.S. Supreme Court granted certiorari on the issue.³⁹

Ultimately, the Supreme Court held that because the excessive fines clause is both “fundamental to our scheme of ordered liberty”⁴⁰ and “deeply rooted in history and tradition,”⁴¹ it must be incorporated as applicable to the states.⁴² The history of such a clause dates back to 1215 in the language of the Magna Carta,⁴³ which required that economic sanctions “be proportioned to the wrong”⁴⁴ and “not be so large as to deprive [an offender] of his livelihood.”⁴⁵ William Blackstone, an English jurist of the Eighteenth Century, echoed the same sentiments: “no man shall have a larger amercement imposed upon him, than his circumstances or personal estate will bear.”⁴⁶ While the imposition of excessive fines remained an issue, the message of the Magna Carta persisted across time and societies.⁴⁷ Language disavowing excessive fines was included in the English Bill of Rights,⁴⁸ the Virginia Declaration of Rights,⁴⁹ and ultimately, the Bill of Rights to the U.S. Constitution.⁵⁰

²² *Timbs*, 139 S. Ct. at 686-87.

²³ *Id.* at 686-88.

²⁴ See Spielman, *supra* note 19.

²⁵ Alec Schierenbeck, *The Constitutionality of Income-Based Fines*, 85 U. CHI. L. REV. 1869, 1885 (2018).

²⁶ See *infra* Part I.

²⁷ See *infra* Part II.

²⁸ See *infra* Part III.

²⁹ *Id.*

³⁰ *Timbs*, 139 S. Ct. at 686.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* at 686-87.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* at 688.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

At its core, the Bill of Rights exists to ensure and protect the deeply rooted fundamental freedoms of American citizens.⁵¹ The Eighth Amendment states in pertinent part that “excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”⁵² As such, its ongoing purpose is to track and adhere to “evolving standards of decency that mark the progress of maturing society.”⁵³ The careful and fervent protection of human dignity lies at the heart of the Eighth Amendment.⁵⁴ Over 800 years of history support the premise that proportionate, graduated fines are essential to preserving such guaranteed fundamental protections.⁵⁵ The *Timbs* decision thereby confirms that excessive fines and seizures are unconstitutional at the state level.⁵⁶

II. Chicago’s Existing Non-Graduated Fine System

Illinois municipalities primarily operate under a non-graduated fine system, meaning fines are assessed at the same rate for all individuals, regardless of income or personal circumstances. Specifically, the City of Chicago has been criticized extensively in recent years for what many consider as predatory imposition of fines and unjustified seizures of personal property from many of Chicago’s most vulnerable residents.⁵⁷ With *Timbs* incorporating a ban on excessive fines as applicable to the states,⁵⁸ Illinois local governments must reevaluate their fine and seizure practices for their constitutionality.⁵⁹

Behind every property seizure and fine in the City of Chicago is the personal story of an affected resident. Sandra Botello, a mother of four, moved to Chicago in 2013 after being evicted from her home in Idaho.⁶⁰ Botello, who came to Chicago in search of new opportunities for herself and her family,⁶¹ instead found herself

inundated with debt as parking tickets for failure to comply with Chicago’s “city sticker” policy began to pile up.⁶² While Botello initially bought a city sticker valid for three months,⁶³ she struggled to find a job in the city,⁶⁴ and eventually had to decide whether she would use her remaining funds to renew her city sticker or pay for her child’s school registration fees.⁶⁵ Botello chose the school fees,⁶⁶ and when she fell behind in paying her tickets, the City seized her car and sold it to a private towing company.⁶⁷ Remarkably, none of the sale price applied to her parking ticket debt⁶⁸—leaving her with even greater financial burdens than before.⁶⁹

Botello’s struggle with high fines and property seizures in the City of Chicago is sadly commonplace. In 2017, the City booted over 67,000 vehicles as punishment for unpaid tickets.⁷⁰ In one-third of those cases, the owner of the vehicle could not afford to remove the boot,⁷¹ resulting in the vehicle being seized by the City and towed to an impound lot.⁷² Vehicle owners were frequently only given 24 hours to pay the removal fee, which was nearly impossible for Chicago residents who were already struggling financially.⁷³ Many of the towed vehicles were sold off, leaving Chicago residents with no vehicle and mounting debt to contend with.⁷⁴

A class action suit filed in February 2020 has challenged the City of Chicago’s high rates of booting, towing, and selling vehicles as unconstitutional under the excessive fines clause.⁷⁵ One of the named plaintiffs, Joseph Walaski, had his vehicle seized after receiving

⁵¹ *Powell v. Alabama*, 287 U.S. 45, 53 (1932).

⁵² U.S. CONST. amend. VIII.

⁵³ *Graham v. Fla.*, 560 U.S. 48, 58 (2010); *Roper v. Simmons*, 543 U.S. 551, 551 (2005).

⁵⁴ *Trop v. Dulles*, 356 U.S. 86, 100 (1958).

⁵⁵ *Timbs*, 139 S. Ct. at 686-87.

⁵⁶ *Id.*

⁵⁷ See Ramos, *supra* note 20.

⁵⁸ *Timbs*, 139 S. Ct. at 686-87.

⁵⁹ *Id.*

⁶⁰ See Ramos, *supra* note 20.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Spielman, *supra* note 19.

three parking tickets.⁷⁶ Walaski, tight on cash, was forced to choose between paying the tickets or paying the loan on the vehicle itself.⁷⁷ He paid the loan, resulting in the City towing his vehicle and selling it only a few weeks later.⁷⁸ Now, Walaski owes on the parking tickets, as well as on the loan for a vehicle that he no longer owns.⁷⁹ Botello and Walaski are just two examples of the thousands of Chicago residents who face harsh fines and personal property seizures causing exponential rates of financial ruin.⁸⁰

III. Impact of Implementing a Graduated Fine System

A. Protecting the Constitutional Rights of Illinois Residents

While the *Timbs* decision does not mandate the imposition of a graduated fine system across the states, its Magna Carta based rationale strongly suggests that such a system would effectively protect the fundamental freedoms constitutionally granted to Illinois residents. However, the incorporation of the excessive fines clause as applicable to the states does not require that states be mandated to engage in specific behaviors,⁸¹ as such a mandate would infringe on the principles of federalism that state constitutions serve to protect.⁸² Regardless, Chicago's non-graduated fine system is clearly broken and fails to serve the interests of its residents.⁸³

On July 1, 2019, the Illinois General Assembly passed the Illinois Criminal and Traffic Assessment Act (the "Act") as a means of simplifying a "byzantine system that attempts to pass an increased share of the

costs of court administration on the parties to court proceedings."⁸⁴ Commentators argue, however, that the Act fails to fulfill its objectives and continues to leave Chicago residents vulnerable to unfair fines and seizures.⁸⁵ The Act prescribes that if a court finds that a fine "would impose an undue burden on the victim, the court may reduce or waive the fine."⁸⁶ However, the Act clarifies that "victim" does not mean "defendant,"⁸⁷ thus eliminating any meaningful fine-reducing impact for Illinois residents cited for traffic violations or any other "victimless crimes."⁸⁸ Despite all of the Act's attempts to lessen the financial burden on Illinois residents, it does not propose a graduated, income-based fine system.⁸⁹

There are a few alternatives to the current, non-graduated fine system that would preserve Eighth Amendment rights while effectively serving the interests of the City. The first is income-based fines.⁹⁰ Countries like Finland and Argentina have functioned under the income-based fine model for over 100 years with high levels of success⁹¹—a model which has potential for success in Chicago, and other Illinois municipalities, too.⁹² These countries typically operate under a "day fine" model, in which an offender's fine is calculated based off of their daily wage.⁹³ Under this model, smaller offenses might cost a fraction of the daily wage,⁹⁴ and more serious offenses might consume months of pay.⁹⁵ Daily wage-based fines were introduced in Staten Island in the late 1980s and 1990s,⁹⁶ and resulted in higher rates of paid fines and lower government expenditures associated with arresting and imprisoning those who do not pay.⁹⁷ In Illinois, an income-based fine system would ensure the ever-

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ See ANN M. LOUSIN, THE ILLINOIS STATE CONSTITUTION: A REFERENCE GUIDE (2009).

⁸² *Id.*

⁸³ Ramos, *supra* note 20.

⁸⁴ Spesia & Taylor Attorneys at Law, *Criminal and Traffic Assessment Act*, (July 25, 2019), <https://spesia-taylor.com/municipal-law/criminal-and-traffic-assessment-act/>.

⁸⁵ Mary Cullen, *National Experts Talk Fines and Fee Solutions, How Illinois' Law Matches Up*, WGLT (Oct. 10, 2019), <https://www.wglt.org/post/national-experts-talk-fines-and-fees-solutions-how-illinois-law-matches#stream/0>.

⁸⁶ 705 ILCS 135/5-5.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ Alec Shierenbeck, *A Billionaire and a Nurse Shouldn't Pay the Same Fine for Speeding*, N.Y. TIMES (Mar. 15, 2018), <https://www.nytimes.com/2018/03/15/opinion/flat-fines-wealthy-poor.html>.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

coveted collection of government revenue without destabilizing and burdening low-income offenders.

Another option for Illinois municipalities, and Chicago in particular, is introducing alternatives to monetary fines like community service. Illinois residents facing DUIs may be required to complete community service as an alternative to incarceration⁹⁸—indicating that many Illinois courts are already equipped to order community service as an alternative means of punishment.⁹⁹ The Circuit Court of Cook County currently has a limited community service program in place that has potential for expansion to traffic-related offenses in the coming years—if local governing bodies so choose.¹⁰⁰ Accepting community service in place of monetary fines improves the community,¹⁰¹ effectively punishes low-income offenders,¹⁰² and prevents recidivism.¹⁰³ Charlottesville, Virginia has implemented such a system and has done so with great success.¹⁰⁴ In Charlottesville, low-income drug offender Steven Robinson was able to reduce a \$12,000 fine to \$5,000 by completing 1,000 hours of community service.¹⁰⁵ The Charlottesville program reduces an inmate's debt by \$7.25—the state minimum wage—for each hour of community service completed.¹⁰⁶ Similar to the daily wage program employed in Finland and Argentina, the Charlottesville program assigns value to fines based on the income of an offender.¹⁰⁷

The Charlottesville program might be especially effective in Chicago because of its potential to save government revenue that would have been spent on hiring people to make improvements to the City. For example, Channahon and Bartlett Park Districts—two

municipal entities in Illinois—accept volunteers who have been court ordered to complete community service.¹⁰⁸ The City of Chicago government consists of several departments—like the Chicago Public Library, Chicago Park District, and Chicago Housing Authority—that would benefit from the additional labor of a court-ordered volunteer.¹⁰⁹ Ultimately, a graduated fine system in Chicago would thrive on flexibility, understanding, and cooperation between the offender and the government to achieve the goals of punishment while protecting the constitutional rights of the offender.

B. Serving the Theories of Punishment

Punishment in the American criminal justice system is centered around four major theories: incapacitation, deterrence, retribution and rehabilitation.¹¹⁰ Each of these theories informs and supports punishments administered in the United States.¹¹¹ An effective and just punishment ought to connect back to these underlying theories, thereby ensuring that the punishment has societal value and meaning.¹¹² The *Timbs* decision, as supported by the language of the Magna Carta, suggests that a graduated and proportionate fine system in Illinois will best serve the theories of punishment.¹¹³

Typically, courts across America agree that in low-level drug and traffic related offenses, rehabilitation should take precedence.¹¹⁴ Notably, the Illinois General Assembly prompts local governments to engage in prevention,¹¹⁵ intervention,¹¹⁶ and rehabilitation programs within

⁹⁸ Circuit Court of Cook County, *Community Service Program*, STATE OF ILLINOIS (last accessed Dec. 30, 2020), <http://www.cookcountycourt.org/ABOUT-THE-COURT/Office-of-the-Chief-Judge/Probation-Departments/Probation-for-Adults/Social-Service-Department/Community-Service-Program>

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ Rebecca Beitsch, *An Alternative to Paying Court Debt: Working It Off*, PEW (Apr. 4, 2017), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2017/04/04/an-alternative-to-paying-court-debt-working-it-off>.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ See Channahon Park District, *Volunteer and Community Service Programs* (last accessed Dec. 30,

2020),

<https://www.channahonpark.org/documents/ServiceVolunteerProgram.pdf>; see also Bartlett Park District, *Volunteer* (last accessed Dec. 30, 2020),

<https://bartlettsparks.org/general-information/volunteer/>.

¹⁰⁹ See City of Chicago, *Departments*, (last accessed Dec. 30, 2020), <https://www.chicago.gov/city/en/depts.html>.

¹¹⁰ Stephen M. LeBlanc, *Cruelty to the Mentally Ill: An Eighth Amendment Challenge to the Abolition of the Insanity Defense*, 56 AM. U. L. REV. 1281, 1296 (2007).

¹¹¹ *Id.*

¹¹² *Id.* at 1285.

¹¹³ *Timbs*, 139 S. Ct. at 686-87.

¹¹⁴ See Andrew Day, *Crime and Punishment and Rehabilitation: A Smarter Approach*, THE CONVERSATION (June 15, 2015),

<https://theconversation.com/crime-and-punishment-and-rehabilitation-a-smarter-approach-41960>.

¹¹⁵ 20 ILCS 301/1-5.

¹¹⁶ *Id.*

the community in cases of substance abuse,¹¹⁷ citing the severe social and economic losses that drug addiction already causes for individuals.¹¹⁸ A graduated fine system—as evidenced through the *Timbs* decision—is vital to effective rehabilitation because it shifts the focus from mere financial survival to recovery and growth.¹¹⁹ Non-graduated fines disproportionately impact impoverished and disadvantaged individuals,¹²⁰ thus stunting their ability to effectively rehabilitate.¹²¹ Reflecting on his own experience, Timbs stated that “forfeiture only makes it more challenging for people in [his] position to clean up and remain a contributing member of society.”¹²² Non-graduated fines have the same effect when imposed on individuals who simply cannot afford them.¹²³ Without considering the income and circumstances of low-income offenders, such individuals will become trapped in a “cycle of debt and jail.”¹²⁴

The current, non-graduated fine system also prevents wealthy offenders from receiving meaningful and effective punishment, which impacts the remaining theories of punishment: incapacitation, deterrence, and retribution.¹²⁵ A fixed fine might have devastating consequences for a low-income offender¹²⁶—but for a high-income offender, the same fine might have no meaningful impact, thus creating no real incentive for an offender to reform their behavior in the future.¹²⁷ When high-income individuals experience no meaningful consequences for committing an offense, those individuals are not deterred from committing another offense in the future.¹²⁸ Such a disparity in punishment across income levels squanders the goals of the criminal justice system: “to treat like offenders alike, punish the deserving, and encourage respect for the law.”¹²⁹ A graduated fine system would achieve these goals, and ultimately uphold the constitutional guarantees of the Eighth Amendment for all.

Conclusion

The decision in *Timbs* has ushered in a new wave of constitutional protection as it incorporated the excessive fines clause of the Eighth Amendment as applicable to the states.¹³⁰ However, the *Timbs* decision is particularly important because of its reference to the deeply rooted language of the Magna Carta in preserving and protecting fundamental freedoms through fair and proportionate fines.¹³¹ In states like Illinois, the existing non-graduated fine system has proved extremely burdensome and debilitating for residents who are already struggling financially.¹³² While the *Timbs* decision does not mandate the adoption of a graduated fine system at the state and municipal level,¹³³ its rationale strongly suggests that states should consider new systems to ensure constitutional protection for all residents.¹³⁴ A graduated fine system in Chicago would effectively fulfill the theories of punishment for offenders of all income levels, as well as give low-income offenders a fighting chance to rehabilitate and contribute to society.¹³⁵ In the end, Tyson Timbs was satisfied in simply having his vehicle returned¹³⁶—but the impact of his case will reach far beyond his individual circumstances, to people of all backgrounds across the country for years to come.¹³⁷

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ See Wilson, *supra* note 15.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ See *id.*

¹²⁴ Schierenbeck, *supra* note 25 at 1870.

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Timbs*, 139 S. Ct. at 687.

¹³¹ *Id.*

¹³² See Ramos, *supra* note 20.

¹³³ *Timbs*, 139 S. Ct. at 687-88.

¹³⁴ *Id.*

¹³⁵ See Schierenbeck, *supra* note 90.

¹³⁶ See Alesia, *supra* note 1.

¹³⁷ *Id.*