

Unlikely Ally Ruth Bader Ginsburg Could Save Trump \$355M

By Nicole Wells March 19, 2024

Amid former President Donald Trump's [scramble to secure bond](#) in the multi-million dollar judgment against him in New York, the presumptive GOP presidential nominee might look to the unlikeliest of figures for legal aid from the late, and famously liberal, Supreme Court Justice Ruth Bader Ginsburg.

Ginsburg delivered the high court's opinion in *Timbs v. Indiana* on Feb. 20, 2019, in which she laid out how the Eighth Amendment's prohibition on excessive fines applies to the states as well as the federal government.

In that case, Indiana police had seized Tyson Timbs' Land Rover SUV, which he had purchased for \$42,000 with money he received from a life insurance policy when his father died. After Timbs pleaded guilty to drug dealing and conspiracy to commit theft, he was fined \$10,000 and the state sought civil forfeiture of the vehicle. The judge ruled that taking the vehicle was an excessive fine because it was worth four times the penalty and excessive fines are prohibited by the Constitution's Eighth Amendment.

The ruling was upheld by the Court of Appeals, but the Indiana Supreme Court overturned it on the grounds that the Eighth Amendment's prohibition on excessive fines only applies to the federal government and not to the states.

In a unanimous decision, the U.S. Supreme Court said that it does, in fact, bind the states as well.

"The Excessive Fines Clause traces its venerable lineage back to at least 1215," Ginsburg wrote. "Magna Carta required that economic sanctions 'be proportioned to the wrong' and 'not be so large as to deprive [an offender] of his livelihood.'"

Timbs v. Indiana was the first time the Supreme Court had determined that the Eighth Amendment's excessive fines clause applied to the states.

In an [opinion piece](#) published recently in the Los Angeles Daily News, Susan Shelley outlined how the Supreme Court eventually found that the Bill of Rights applies to the federal and state levels and said Trump will be protected from the state of New York by that recognition.

The Eighth Amendment states, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

Shelley notes that the amendment's clauses were declared applicable to the states in stages, with the "cruel and unusual punishments" clause declared applicable in 1962, in *Robinson v. California*. The provision about "excessive bail" was first applied to the states in the 1971 case of *Schilb v. Kuebel* and the "excessive fines" prohibition has bound the states since the *Timbs* case in 2019.

Judge Arthur Engoron fined the former president a staggering \$355 million plus \$100 million in continually-accruing interest. He also banned the Trump Organization from applying for loans from financial institutions that do business in

New York for three years and banned Trump from working as a director or officer of any company in New York for the same time period. Additionally, Trump's request for a 30-day extension of the fine's due date – which New York requires before he can appeal the judgment – was denied by Engoron.

Shelley points out that "[t]his was a civil fraud trial, without a jury, in which the judge found Trump guilty of giving his assets a too-high valuation to get good loan terms, even though the bank adjusted those values downward before approving a loan that was paid back fully and on time, with interest."

Ginsburg understood how the protection from excessive fines played an important role in underpinning American constitutional liberties overall.

"For good reason, the protection against excessive fines has been a constant shield throughout Anglo-American history: Exorbitant tolls undermine other constitutional liberties," she wrote. "Excessive fines can be used, for example, to retaliate against or chill the speech of political enemies."

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