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No. 121636

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS ex rel. MATTHEW HARTRICH, State's Attorney of Crawford County, Illinois, Plaintiff-Appellant, v. 2010 HARLEY-DAVIDSON, Defendant, PETRA HENDERSON, Claimant-Appellee.	Appeal from the Appellate Court of Illinois, Fifth Judicial District, No. 5-15-0035 There on Appeal from the Circuit Court of the Second Judicial Circuit, Crawford County, Illinois, No. 14-MR-20 The Honorable Christopher L. Weber, Judge Presiding.

BRIEF OF CLAIMANT-APPELLEE,
PETRA HENDERSON

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POINTS AND AUTHORITIES

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ARGUMENT

The trial court violated Claimant-Appellee, PETRA HENDERSON's, constitutional rights when it ordered forfeiture of her 2010 Harley-Davidson motorcycle based on her husband's conduct. The Fifth District Appellate Court properly held that the forfeiture was grossly disproportionate to the Claimant's culpability, and the Appellate Court's decision should be affirmed.

I. The forfeiture of the Claimant's Harley-Davidson violated the Eighth Amendment as it was grossly disproportionate to Claimant's alleged culpability.

This Court has not yet had the opportunity to address forfeiture in the context of a spouse's property, forfeited based on the other spouse's conduct. This case warrants affirmation of the Appellate Court's decision, finding such a forfeiture excessive under the Eighth Amendment.

A. Legal Framework.

Forfeiture is undergoing a sea change, in which the courts have recognized forfeiture as a punishment, when the amount seized by the government is grossly disproportionate to the gravity of the offense. *United States v. Bajakajian*, 524 U.S. 321 (1998). The trend, since the United States Supreme Court's decision in *Austin v. United States*, 509 U.S. 602 (1993), has been toward expansion of the excessive fines clause of the Eighth Amendment to limit the overreaching inherent in forfeiture statutes. Since the 1970's, government has expanded forfeiture from the laudable goal of removing ill-gotten gains from law breakers as a deterrence to crime, to a revenue-enhancing mechanism by

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which the government can fill its coffers, with little judicial scrutiny or standards being applied. That revenue-enhancing mechanism has been further expanded by forfeiting property of owners who have not been convicted of any crime.

Recognizing the potential for abuse in deferring to the legislative judgments codified into forfeiture statutes, the courts are conducting more in-depth analyses under the excessive fines clause and legislatures are amending statutory constructs, to protect the rights of property owners.

The Eighth Amendment of the United States Constitution provides that "[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted." From the time of its enactment, the excessive fines clause had been largely ignored, and was not applied by the United States Supreme Court until *Bajakajian* in 1998. In *Bajakajian*, the Court bridged the gap between civil and criminal law, and held that the excessive fines clause applies to all manner and form of punishment. 524 U.S. 321, 328. The claimant in *Bajakajian* was indicted and pleaded guilty to failure to report that he was transporting $357,144 in currency out of the country. *Id.* at 325. The United States government, in an *in personam* forfeiture proceeding, sought the entire amount of cash, although the funds were unconnected to any criminal activity. *Id.* at 325, 326. The trial court found the government's request would violate the excessive fines clause, as it was grossly disproportionate to the offense, the money was unrelated to any illegal activity, and the defendant did not fit the class of persons for whom the particular forfeiture statute was designed: money launderer, drug trafficker, or

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tax evader. *Id.* at 338. The defendant-claimant was sentenced to three years of probation for his failure to report the currency, fined $5,000, and was ordered to forfeit $15,000. *Id.* at 326. The Ninth Circuit Court of Appeals affirmed. *Id.*

The United States Supreme Court also affirmed, and conducted a dual-prong inquiry in evaluating the excessive fines clause. The Court ruled in the first prong that forfeiture was punitive regardless of whether the proceeding was civil *in rem* or criminal *in personam*, and rejected the government's argument that it was remedial and served to deter crime. *Id.* at 329, 333-34. The Court then turned its attention to whether the requested forfeiture was grossly disproportionate to the gravity of the offense. Finding the forfeiture was excessive in light of the claimant's culpability and the lack of harm caused by the offense, the Court adopted a gross disproportionality standard. *Id.* at 339-40. Because the forfeiture was "larger than the $5,000 fine imposed by the District Court by many orders of magnitude," and because it bore "no articulable correlation to any injury suffered by the Government," the Court concluded that the forfeiture violated the excessive fines clause. *Id.* at 340.

This Court has not reviewed a case since the decision in *Bajakajian*. The last case decided by this Court under the excessive fines clause was *People ex rel. Waller v. 1989 Ford F350 Truck* decided in 1994 following the United States Supreme Court's decision in *Austin*. In *1989 Ford F350 Truck*, the defendant-claimant was prosecuted for possession of cocaine, sentenced to eighteen months' probation, fined $500, plus probation and court costs of $847. 162 Ill. 2d 78, 80 (1994). The State then brought a

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forfeiture action seeking the truck and $55.99 in cash on the defendant's person. *Id.* at 81. The trial court found for the State, finding that the mere presence of the controlled substance on the defendant's person was sufficient to subject the vehicle to forfeiture; and the $55.99 in cash was presumptively used to facilitate possession of cocaine. *Id.* at 82. This Court reversed the ruling on the $55.99 in cash, stating it was reasonable to infer that amount of cash would be found in a person's pocket, irrespective of criminal conduct. *Id.* at 85.

As for the truck, this Court analyzed the United State's Supreme Court's decision in *Austin v. United States*, 509 U.S. 602 (1993), the predecessor case to *Bajakajian*, and the lower courts' decisions since *Austin*, in an effort to develop an excessiveness test. 162 Ill. 2d at 88-89. This Court stated it was joining "the growing number of courts which have adopted a multifactor analysis of the excessiveness issue." *Id.* at 89. The test cannot turn on the relationship between the property and the offense, as such test is "patently inadequate and necessarily conflates the eighth amendment excessive fine analysis with the determination of whether the property is subject to forfeiture in the first instance." *Id.* Instead, this Court stated that the analysis "demands a broader scope of inquiry" and "must contain some measure of proportionality." *Id.*

This Court then articulated a three-prong test, under which a court in a forfeiture proceeding must weigh (1) the gravity of the offense in comparison to the harshness of the penalty, (2) whether the property was integral to the commission of the offense, and (3) whether the criminal activity involving the property was extensive in terms of time or

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spatial use, or both. *Id.* at 90. This Court also stated the trial courts were "not precluded from considering factors not specifically listed," and the case-by-case nature of forfeitures precluded "simple cookbook application of any method of review." *Id.* This Court believed that the test would check the government's potential for abuse of civil forfeiture statutes. *Id.*

This has not proven true, as the lower courts have failed to follow this Court's standards in *1989 Ford F350 Truck.* According to the Illinois Policy Institute and the American Civil Liberties Union of Illinois, between 2005 and 2015, the State has gained more than $319 million from forfeiture proceedings, with motor vehicles a particularly popular target. Ben Ruddell, Bryant Jackson-Green, *Asset Forfeiture in Illinois: What it is, where it happens, and reforms the state needs*, available at http:illinois policy.org/reports/asset-forfeiture-in-illinois. Illinois also received a grade of D- from the Institute for Justice for the quality of its property protection. Dick Carpenter, Lisa Knepper, Angela Erickson, and Jennifer McDonald, *Policing for Profit: The Abuse of Civil Asset Forfeiture, Second Edition*, Institute for Justice (Nov. 2015), available at ij.org/report/policing-for-profit. The present forfeiture laws offer little protection for property owners. The property owner never needs to be convicted of, or even charged with a crime; has no right to appointed counsel in a forfeiture proceeding; and must post bond to contest the seizure; while law enforcement has a strong incentive to seize property because the proceeds pass largely to the very agency that seized the property. *Asset Forfeiture in Illinois, id.*

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The Illinois legislature has been slow in recognizing the archaic legal fiction of *in rem* civil proceedings against a piece of property, negating the need to charge and convict an owner of a crime or appoint counsel. Because civil *in rem* proceedings only require a preponderance of the evidence, and because the police and prosecutors share in the proceeds for forfeited property, the opportunity to abuse the process is rampant.

Recognizing the inequity in the forfeiture proceeding, the legislature has proposed two new acts, which passed the legislature with overwhelming bipartisan support, and await the governor's signature. Ben Rudell, *Reform is Finally Coming to Illinois's Unjust Civil Asset Forfeiture Laws*, July 17, 2017, available at https://www.aclu.org/blog/speak-freely/reform-finally-coming-Illinois-unjust-civil-asset-forfeiture-laws.

The Seizure and Forfeiture Reporting Act and the Asset Forfeiture Proceeds Disbursement Law, pending as either HB 303 or HB 689 (hereafter HB 303) in the 100th General Assembly, address the inequities in Illinois's forfeiture laws. HB 303 applies to Article 36 of the Criminal Code of 2012, the Act used to seize Claimant, Petra Henderson's motorcycle. HB 303 would remove many of the impediments faced by a claimant under the present forfeiture statutes, including removing the incentives for policing agencies by denying them the proceeds from forfeitures and requiring the state to prove its case by clear and convincing evidence. Most importantly for the instant case, HB 303 mandates for a proportionality hearing. HB 303, sec. 36-3.1. Such a proportionality test should, at a minimum, require the courts to consider the seriousness of the offense, the duration of the activity, the harm caused by the claimant, the extent of

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the claimant's participation in the crime, the sentence and fine imposed on the criminal defendant for committing the crime subjecting the property to forfeiture, the fair market value of the property, the extrinsic value to the claimant, and the monetary value of the property to the state.

HB 303 recognizes that the courts have failed to follow this Court's standards in *People ex rel. Waller v. 1989 Ford F350 Truck* and the Supreme Court's guidance in *Bajakajian*. This Court now has the opportunity to address the standards that should be applied by the courts in forfeiting the property of a claimant who has not been charged with and convicted of a crime.

B. The forfeiture of the Claimant's $35,000 Harley-Davidson, based on the criminal conduct of her husband, was grossly disproportionate to the Claimant's culpability.

The Fifth Judicial Circuit Appellate Court was correct in finding the forfeiture of Claimant, Petra Henderson's, $35,000 motorcycle was grossly disproportionate to her culpability.

In an excessive fines analysis, the first step should be determining what category a claimant's conduct falls into. *People ex rel. Waller v. 1996 Saturn*, 298 Ill. App. 3d 464, 472 (1998). A claimant's conduct that is intentional may be more culpable than negligent conduct. *Id.* at 472. Similarly, violent crimes are more serious than nonviolent crimes, or uncompleted crimes. *Id.* at 471-72. "These categories include situations where '(1) the claimant has been convicted of the criminal act or acts underlying the forfeiture; (2) the claimant has never been charged with any crime; and (3) the claimant has been charged

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and acquitted of the act or acts underlying the forfeiture." *Id.* (quoting *United States v. Real Property Located at 6625 Zumeriz Drive*, 845 F. Supp. 725 (C.D. Cal. 1994). The claimant's culpability decreases in each situation. *Id. See, e.g., Von Hofe v. United States*, 492 F.3d 175, 189 (2d Cir. 2007) (finding wife's involvement in husband's growing of marijuana for sale in the marital home was the low end of culpability best described as turning a blind eye).

In this matter, the testimony was uncontroverted that Claimant, Petra Henderson, had been driving the motorcycle the entire evening, until they left the Corner Place. R58, R68, R77-79.[1] It was also uncontroverted that Claimant was not drinking but her husband was. R78-79. After Claimant's husband insisted he was driving from the Corner Place and she could walk if she did not like it, Claimant testified she told her husband to get off the bike and that he was not driving, but he refused, R79-80, and after a brief argument, R84, she got on the passenger seat because she did not want to walk home, R80-81. While Claimant could have refused to ride on the motorcycle and walked the twelve blocks home, or could have called the police on her husband, that conduct was at most negligent. Petra Henderson was not charged with a crime that would have made her motorcycle subject to forfeiture. *People ex rel. Hartrich v. 2010 Harley-Davidson*, 2016 IL App (5th) 150035, ¶ 33; A13-14. As such, her low culpability in this matter weighs in her favor in an excessive fines analysis.

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[1] Claimant-Appellee has adopted the same record citations as used by the State. *See* State's Br. at 2.)

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The Appellate Court recognized that Petra Henderson was not the one who committed the crime. 2016 IL App (5th) 150035, ¶ 31; A12. While that fact will not absolve her culpability under section 36 of the Criminal Code, "the difference in culpability between an offender and an acquiescing vehicle owner must be taken into account." *Id.* The trial court failed to do so.

The Appellate Court noted that the trial court erred in merely comparing property values from *People v. One 2000 GMC*, 357 Ill. App. 3d 873 (2d Dist. 2005) with Petra Henderson's motorcycle. *Id.* at ¶ 35; A14. In fact, the trial court here made a singular finding on excessive fines, without analysis, and stated "[i]n that case, Appellate Court held forfeiture of $28,000 vehicle for offenses of driving on a suspended license (due to DUI) was not an excessive fine in violation of the Eighth Amendment." A20-21.

However, *One 2000 GMC* is readily distinguishable. In that case, the claimant was also the defendant who pleaded guilty to driving under the influence and driving on a suspended license. 357 Ill. App. 3d at 874. The Appellate Court noted that the claimant's crime was not one of violence, but it was subject to severe penalties, including imprisonment and a fine of up to $2,500. *Id.* at 877. The Appellate Court also noted that forfeiture of a $28,000 vehicle was "undeniably a severe penalty" especially when taking into account the claimant's limited means and assets. *Id.* at 878.

Rather than undertake an analysis of what the effect would be of forfeiture, the trial court here merely determined $35,000 was close enough to $28,0000. C3-4, A20-21. In contrast to the defendant-claimant in *One 2000 GMC*, Petra Henderson is the sole

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owner of the 2010 Harley-Davidson motorcycle forfeited. R75. She was making payments on the $35,000 motorcycle at the time of forfeiture to Harley Davison, the lienholder. R75-76, 83. The trial court conducted no hearing regarding Petra Henderson's finances, the fair market value of the motorcycle, the extrinsic value to Ms. Henderson, or the implications of forfeiting a vehicle on which there was a lien. Instead, the trial court found there was not a great deal of difference between a $28,000 vehicle and a $35,000 vehicle. Something more was required and the Appellate Court properly held that the monetary value of the motorcycle alone "is sufficient to make the forfeiture a harsh penalty, 2016 IL App (5th) 150035, ¶ 35 ,and reversed the trial court's ruling. The Appellate Court should be affirmed.

1. Claimant's motorcycle should have been returned to her as an excessive fine.

The State's argument that the motorcycle was an instrumentality and thus subject to forfeiture was not an issue raised on appeal by the Claimant. On appeal to the intermediate court, the Claimant raised that she had not consented to her husband's use of the motorcycle, and that the forfeiture was excessive under the Eighth Amendment.

The Appellate Court's decision stated it would not overturn the trial court's finding that she consented, as the issue turned largely on credibility and the Appellate Court did not find the evidence overwhelmingly favored the Claimant. 2016 IL App (5th) 150035, ¶ 23; A9. The Appellate Court also stated that "there was no dispute that the motorcycle was used in the commission of a DUI," and "the State is only required to

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demonstrate that the motorcycle was used in the commission of an offense that makes it subject to forfeiture." *Id.* at ¶ 22; A9. Thus, the fact that the motorcycle was the instrumentality of the crime giving rise to a forfeiture proceeding is a non sequitur in an Eighth Amendment excessive fine challenge. Just because a vehicle facilitates an offense does not automatically render it forfeitable. *People ex rel. Waller v. 1992 Oldsmobile Station Wagon,* 265 Ill. App. 3d 93, 96 (2d Dist. 1994). Such a finding runs afoul of this Court's determination in *People ex rel. Waller v. 1989 Ford F3250 Truck*, as conflating the statutory requirements of forfeiture with the Eighth Amendment analysis. 162 Ill. 2d at 89.

The court in *1992 Oldsmobile Station Wagon* mirrored other courts' concerns that any property could be forfeited based on a single transaction and stated some consideration must be given to the extent the forfeited property facilitated the offense. *Id.* at 97. The courts should also consider the value of the property and relative seriousness of the offense. *Id.*

The focus of the inquiry should be on whether the forfeiture of the instrumentality is excessive in light of the Claimant's culpability, where the Claimant is not the criminal defendant. For example, in *People v. Jaudon*, the City of Chicago used its municipal ordinance to seize and impound several vehicles that contained illegal firearms. 307 Ill. App. 3d 427, 429 (1st Dist. 1999). The ordinance, a municipal version of Home Rule forfeiture, allowed the city to impound the cars, fine the owners $500 plus towing costs and storage fees; and if the owners could not pay the fines, then the city could sell the

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vehicles. *Id.* at 432. One vehicle was owned by one of the defendants, and the others were owned by relatives or in co-ownership with a relative. *Id.* at 433. The trial court ordered all the vehicles released without the posting of the ordinance-required bonds. *Id.* at 434. The Appellate Court analyzed the ordinance under an excessive fines analysis, using the *Bajakajian* standards as applied in *Towers v. City of Chicago*, 173 F.3d 619 (7th Cir. 1999). *Id.* at 439. The Appellate Court adopted the reasoning from *Towers*, and stated that the $500 fine was reasonable, as the gravity of the offense was minimal, given that the vehicle owners were not involved in criminal activity, and further finding the owners were culpable for consenting to the use of their vehicles without insuring no illegal items would be transported therein. *Id.* at 439. The Appellate Court held that "the $500 fine imposed upon the owners of vehicles who lend their vehicles to individuals who place unlawful weapons within the vehicles is not grossly disproportionate the offenses committed." *Id.* at 440.

This reasoning stands in stark contrast to the decisions in which the forfeited property actually belonged to the criminal defendant, who was also the claimant in the forfeiture proceeding. *See, e.g., People v. 1998 Lexus GS300*, 400 Ill. App. 3d 462 (1st Dist. 2010) (finding forfeiture was not grossly disproportionate when defendant drove on a revoked license after a prior DUI conviction). While the State is correct that drunk driving is dangerous (State's Br. at 13), the only goal accomplished in forfeiting Petra Henderson's motorcycle to the police who arrested her husband for DUI, is to punish Petra Henderson for being married to a drunk, while it would enhance the policing-for-

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profit scheme that is forfeiture. Nor is the State's concern that affirming the Appellate Court's decision will lead to the wealthy avoiding forfeiture warranted or supported by facts. "Contrary to the preferred narrative of law enforcement, these cases rarely involve trunks full of plastic-wrapped $100 bills, Maseratis, yachts, or other luxury items associated with major criminal enterprises. Instead the property at issue is often just a few hundred dollars cash or a rickety old car." Ben Ruddell, *Reform is Finally Coming to Illinois's Unjust Civil Asset Forfeiture Laws*, *supra*.

In fact, the State points out that the actual criminal defendant here could be fined a maximum of $25,000. (State's Br. at 13.) Forfeiting Petra Henderson's $35,000 motorcycle, based on her lesser culpability, is excessive. Furthermore, the forfeiture serves as no deterrence to crime, as Petra Henderson has not been charged or convicted of any crime, and her husband has already demonstrated his unwillingness to follow the law.

The Appellate Court found the forfeiture in Petra Henderson's situation to be "particularly harsh," in light of the Claimant, Petra Henderson's culpability in her husband's crime. 2016 IL App (5th) 150035, ¶¶ 31-35; A12-14. The decision was correct and should be affirmed.

2-3. Claimant's conduct was negligent, not criminal, and forfeiture of her motorcycle is an excessive fine for that conduct

In responding to the state's second and third argument, the arguments here are combined as each addresses the culpability of the Claimant. However, contrary to the State's position, the conduct of the criminal defendant here, Claimant's husband, cannot be imputed to the Claimant.

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As the Appellate Court noted, in considering whether a forfeiture was excessive, "the difference in culpability between an offender and an acquiescing vehicle owner must be taken into account," and that "in nearly all cases, the acquiescing owner will be less culpable than the actual offender." 2016 IL App (5th) 150035, ¶ 31; A13. The law is supposed to disfavor forfeiture and statutes must be construed strictly in favor of the person whose property is seized. *People v. 1991 Chevrolet Camaro*, 251 Ill. App. 3d 382, 388 (2d Dist. 1993). Nor is a titleholder's claim to avoid forfeiture defeated automatically because a joint owner or joint titleholder is shown to exercise some dominion or control over the property. *Id.* at 387 (affirming trial court's denial of forfeiture when father's car was used by son in commission of a burglary).

The closest case is *Commonwealth of Pennsylvania v. 1997 Chevrolet*, 106 A.3d 836 (2014), in which the court rejected the State's arguments in this matter. In *1997 Chevrolet*, the trial court forfeited a homeowner's home and car, based on the illegal drug transactions of her son. *Id.* at 845. The reviewing court directed the parties to address, in relevant part: (1) whether it should decline to apply the current tests for excessive fine on property owners not charged with crimes supporting forfeiture, and if not, what test should be used; and (2) whether it should adopt a clear and convincing evidence standard for civil forfeitures. *Id.* at 847.

The court determined that the property owner's culpability must be evaluated based on her own knowledge and actions, not the wrongdoer's actions. *Id.* at 862. The court reversed the forfeiture and remanded with extensive instructions. *Id.* at 862-63.

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The court specifically rejected the notion that the mother had to invite the police to her home to prove her lack of consent, stating "an owner does not have to become an *ad hoc* law enforcement officer to demonstrate lack of consent." *Id.* at 870. The court also stated that forfeiture shifts the burden to the property owner to prove a negative, and the trial court must make specific findings if it is rejecting the property owner's testimony. *Id.*

All of the problems in the "lip-service" approach of the trial court in *1997 Chevrolet, id.* at 871, existed in Petra Henderson's case. The trial court rejected Petra Henderson's testimony on lack of consent, but made no findings on reasoning, other than it was self-serving, which is merely a truism of all testimony. As with the mother in *1997 Chevrolet*, Petra Henderson had no obligation to be an *ad hoc* police department and stop her husband from driving the motocycle. The record is also devoid of any information regarding the sentencing of Claimant's husband, although the State, in its brief, stated that a conviction for aggravated DUI could result in three years of prison and a fine up to $25,000.00. (State's Br. at 13.) Although courts have rejected a comparison of the possible penalty for the criminal defendant to the value of the forfeited property, *People v. One 2005 Acura RSX*, 2017 IL App (4th) 160585, ¶ 22; presumably, the State here has punished Petra Henderson's husband for his culpability in the aggravated DUI. Punishing Petra Henderson for her minor conduct, which resulted in no harm to people or property, and resulted in no criminal charge against Petra Henderson, violates the excessive fines clause and serves no purpose other than to encourage police efforts to seize property for

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profit.

The one thing that is clear across the case law, whether federal or state, civil *in rem* or criminal *in personam*, is that the lower courts need direction on how to apply the specific tests for determining excessive fines, and perhaps a different test for non-criminal claimants. This is brought in to sharp relief when the claimant is not the wrongdoer giving rise to the forfeiture action and the courts have struggled with the culpability inquiry. This Court has the opportunity to establish a test for future claimants. As for Petra Henderson, the Appellate Court's determinate the fine was excessive should be affirmed.

Therefore, because the Claimant, Petra Henderson's, level of culpability in this matter was inconsistent with forfeiture of a $35,000 vehicle, the Appellate Court's decision should be affirmed.

II. The Appellate Court's finding that there was adequate information in the record to determine the fine was excessive should be affirmed.

The Appellate Court did not err in finding there was adequate information in the record to determine the fine was excessive.

The standards imposed by this Court in *People ex rel. Waller v. 1989 Ford F350 Truck*, 162 Ill. 2d 78 (1994), required the trial court to conduct a hearing on proportionality of the forfeiture.

This Court articulated a three-prong test, under which a court in a forfeiture proceeding must weigh (1) the gravity of the offense in comparison to the harshness of the penalty, (2) whether the property was integral to the commission of the offense, and

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(3) whether the criminal activity involving the property was extensive in terms of time or spatial use, or both. *Id.* at 90. This Court also stated the trial courts were "not precluded from considering factors not specifically listed," and the case-by-case nature of forfeitures precluded "simple cookbook application of any method of review." *Id.*

While the trial court here ignored the standard and performed only a perfunctory analysis under the first prong, 2016 IL App (5th) 150035, ¶ 29, the Appellate Court properly stated there was adequate information in the record to determine that Petra Henderson's culpability as compared to the value of the vehicle was enough to find the fine was an excessive fine in violation of the Eighth Amendment, *Id.* at ¶¶ 31-36.

Remanding the matter to the trial court will only further the harm suffered by Claimant, Petra Henderson, as she would be left with retaining counsel again, at her expense, to give the State a second bite at the apple in policing for profit.

The Appellate Court's decision reversing the lower court should be affirmed.

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CONCLUSION

For the foregoing reasons, Claimant-Appellee, PETRA HENDERSON, respectfully requests that this Honorable Court affirm the ruling of the Appellate Court and restore her ownership of the 2010 Harley-Davidson; or, if the State has sold the vehicle, the proceeds therefrom.

August 22, 2017

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) statements of points and authorities, the Rule 341(c) certificate of compliance, and those matters to be appended to the brief under Rule 342(a), is 18 pages.

/s/ James A. Campion
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STATE OF ILLINOIS)
) ss
COUNTY OF McHENRY)

PROOF OF FILING AND SERVICE

Under penalty of law as provided in 735 ILCS 5/1-109 (2014), the undersigned certifies that the statements set forth in this instrument are true and correct, including that the foregoing Appellee's Brief was filed with the Clerk of the Supreme Court of Illinois, using the court's electronic filing system, and that it was served by placing three copies in envelopes with proper prepaid postage affixed and directed to each person named below at the address indicated, and by depositing each envelope in the United States mail in Crystal Lake, Illinois on August 22, 2017.

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