NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

AUSTIN *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 92–6073. Argued April 20, 1993—Decided June 28, 1993

After a state court sentenced petitioner Austin on his guilty plea to one count of possessing cocaine with intent to distribute in violation of South Dakota law, the United States filed an *in rem* action in Federal District Court against his mobile home and auto body shop under 21 U. S. C. §881(a)(4) and (a)(7), which provide for the forfeiture of, respectively, vehicles and real property used, or intended to be used, to facilitate the commission of certain drug-related crimes. In granting the Government summary judgment on the basis of an officer's affidavit that Austin had brought two ounces of cocaine from the mobile home to the body shop in order to consummate a prearranged sale there, the court rejected Austin's argument that forfeiture of his properties would violate the Eighth Amendment's Excessive Fines Clause. The Court of Appeals affirmed, agreeing with the Government that the Eighth Amendment is inapplicable to *in rem* civil forfeitures.

Held:

1. Forfeiture under §§881(a)(4) and (a)(7) is a monetary punishment and, as such, is subject to the limitations of the Excessive Fines Clause. Pp. 3–20.

(a) The determinative question is not, as the Government would have it, whether forfeiture under §§881(a)(4) and (a)(7) is civil or criminal. The Eighth Amendment's text is not expressly limited to criminal cases, and its history does not require such a limitation. Rather, the crucial question is whether the forfeiture is monetary punishment, with which the Excessive Fines Clause is particularly concerned. Because sanctions frequently serve more than one purpose, the fact that a forfeiture serves remedial goals will not exclude it from the Clause's purview, so long as it can only be explained as serving in part to punish. See *United States* v. *Halper,* 490 U. S. 435, 448. Thus,

consideration must be given to whether, at the time the Eighth Amendment was ratified, forfeiture was understood at least in part as punishment and whether forfeiture under §881(a)(4) and (a)(7) should be so understood today. Pp. 3–8.

Syllabus

(b) A review of English and American law before, at the time of, and following the ratification of the Eighth Amendment demonstrates that forfeiture generally and statutory *in rem* forfeiture in particular historically have been understood, at least in part, as punishment. See, *e.g., Peisch* v. *Ware,* 4 Cranch 347, 364. The same understanding runs through this Court's cases rejecting the ``innocence'' of the owner as a common-law defense to forfeiture. See, *e.g., Calero-Toledo* v. *Pearson Yacht Leasing Co.,* 416 U. S. 663, 683, 686, 687. Pp. 8–16.

(c) Forfeitures under §§881(a)(4) and (a)(7) are properly considered punishment today, since nothing in these provisions contradicts the historical understanding, since both sections clearly focus on the owner's culpability by expressly providing ``innocent owner'' defenses and by tying forfeiture directly to the commission of drug offenses, and since the legislative history confirms that Congress understood the provisions as serving to deter and to punish. Thus, even assuming that the sections serve some remedial purpose, it cannot be concluded that forfeiture under the sections serves only that purpose. Pp. 16–20.

2. The Court declines to establish a test for determining whether a forfeiture is constitutionally ``excessive,'' since prudence dictates that the lower courts be allowed to consider that question in the first instance. P. 20.

964 F. 2d 814, reversed and remanded.

BLACKMUN, J., delivered the opinion of the Court, in which WHITE, STEVENS, O'CONNOR, and SOUTER, JJ., joined. SCALIA, J., filed an opinion concurring in part and concurring in the judgment. KENNEDY, J., filed an opinion concurring in part and concurring in the judgment, in which REHNQUIST, C. J., and THOMAS, J., joined.