
FOURTEENTH AMENDMENT — PROPERTY INTERESTS — SIXTH
CIRCUIT UPHOLDS MICHIGAN’S DRIVER’S LICENSE SUSPENSION
LAW FOR INDIGENT DRIVERS UNDER FOURTEENTH
AMENDMENT. — *Fowler v. Benson*, 924 F.3d 247 (6th Cir. 2019).

Michigan law imposes fines for traffic violations, which, if unpaid, can result in a suspended license or even jail time.¹ A person who fails to pay the fine has fourteen days after her initial nonpayment notice to appear in court or comply with the judgment before her license is “immediately suspend[ed].”² The law’s reach is expansive: as of 2019, almost 317,000 Michiganders had had licenses suspended for their inability to pay associated fees.³ The fees, while individually small, can balloon into large sums of money — creating a cycle of debt and leaving the poor and people of color particularly vulnerable.⁴ Recently, in *Fowler v. Benson*,⁵ the Sixth Circuit held that a Michigan law authorizing automatic driver’s license suspensions as a result of unpaid court debt did not violate the Fourteenth Amendment.⁶ The court denied the plaintiffs’ due process and equal protection claims, though it acknowledged that as a matter of policy, the law was perhaps “unwise, even counterproductive.”⁷ The Sixth Circuit’s rejection of the plaintiffs’ claims rested on the premise that the mixed due process and equal protection framework established in *Griffin v. Illinois*⁸ was inapplicable because the interest of indigent people in maintaining their driver’s licenses was not sufficiently fundamental.⁹ In declining to apply the *Griffin* framework, the court assumed a questionable liberty-property

¹ MICH. COMP. LAWS §§ 257.907(11)–(13), 257.321a(1) (2006). The fines can amount to hundreds of dollars and are subject to a twenty percent late fee. §§ 257.907(4)–(5), 600.4803.

² § 257.321a(2). In addition, failing to pay traffic debt or driving on a suspended license carries the possibility of jail time for up to three months, hundreds of dollars of fines, or both. § 257.321a(1). Reinstating a license involves similar hurdles. See § 257.321a(5).

³ *Only 37,000 Michigan Drivers Have Gotten Licenses Back Since Fee Forgiveness*, CRAIN’S DETROIT BUS. (Mar. 29, 2019, 6:46 AM), <https://www.crainsdetroit.com/transportation/only-37000-michigan-drivers-have-gotten-licenses-back-fee-forgiveness> [<https://perma.cc/CWW3-2TJ4>] [hereinafter *Michigan Drivers*].

⁴ See MARIO SALAS & ANGELA CIOLFI, LEGAL AID JUSTICE CTR., DRIVEN BY DOLLARS: A STATE-BY-STATE ANALYSIS OF DRIVER’S LICENSE SUSPENSION LAWS FOR FAILURE TO PAY COURT DEBT 4, 6 (2017), <https://www.justice4all.org/wp-content/uploads/2017/09/Driven-by-Dollars.pdf> [<https://perma.cc/G572-DAZJ>]. The harmful consequences of these practices were exposed following the killing of Michael Brown in Ferguson, Missouri, in 2014. See CIVIL RIGHTS DIV., U.S. DEP’T OF JUSTICE, INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 79–89 (Mar. 4, 2015), https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf [<https://perma.cc/9C7D-BYRY>].

⁵ 924 F.3d 247 (6th Cir. 2019).

⁶ *Id.* at 252.

⁷ *Id.* at 262.

⁸ 351 U.S. 12 (1956).

⁹ See *Fowler*, 924 F.3d at 260–61.

dichotomy that impeded it from properly considering the importance of having a driver's license in today's society.

In 2012, Adrian Fowler moved to Michigan and was unable to renew her license because of court debt accrued in Georgia.¹⁰ The following year, she was fined almost \$600 for speeding and driving without a license while driving her child to the hospital.¹¹ In 2016, Kitia Harris, another Michigan resident, had her license suspended after failing to pay the fines associated with a \$150 ticket for "impeding traffic."¹² Paying the fines proved difficult for both women. Ms. Fowler earned a monthly salary of only about \$700, and Ms. Harris, relying on government aid, had little disposable income to pay her fees.¹³ When Ms. Fowler informed the court of her circumstances, she was told she would have to pay within three weeks or risk being arrested.¹⁴ Ms. Harris testified that she requested a payment plan, as she was similarly concerned about her ability to pay, and was denied.¹⁵ Life without a license presented serious obstacles: Ms. Fowler declined a higher-paying job because she couldn't commute without a car,¹⁶ and Ms. Harris "struggle[d] to attend her regular medical appointments."¹⁷

Ms. Fowler and Ms. Harris filed a class action suit in the United States District Court for the Eastern District of Michigan to challenge the state's practice of suspending the driver's licenses of people with outstanding court debt.¹⁸ In addition, they filed a motion for a preliminary injunction to halt this practice, arguing that it violated the Equal Protection and Due Process Clauses of the Fourteenth Amendment.¹⁹

The district court granted the injunction.²⁰ It weighed the plaintiffs' various claims against Michigan's law, accepting only the procedural due process charge that the state did not afford an opportunity to be heard before it revoked driver's licenses.²¹ The plaintiffs' other arguments — due process claims of fundamental fairness under *Griffin* and the right to intrastate travel, and an equal protection claim of extraordinary debt collection — were rejected, and the court found no discriminatory intent or facial classifications that would trigger equal protection concerns.²² It rejected the claims under rational basis review, finding

¹⁰ *Fowler v. Johnson*, No. 17-11441, 2017 WL 6379676, at *2 (E.D. Mich. Dec. 14, 2017).

¹¹ *Id.*

¹² *Id.* at *3.

¹³ *Id.*

¹⁴ *Id.* at *2.

¹⁵ *Fowler*, 924 F.3d at 252–53. The government disputed this account. *Id.* at 253.

¹⁶ *Fowler*, 2017 WL 6379676, at *3.

¹⁷ *Fowler*, 924 F.3d at 253.

¹⁸ *Id.* Plaintiffs filed suit under 42 U.S.C. § 1983 (2012). *Id.*

¹⁹ *Fowler*, 2017 WL 6379676, at *1, *6.

²⁰ *Id.* at *1.

²¹ *Id.* at *10.

²² *Id.* at *6–9, *8 n.7.

that Michigan's suspension scheme did not involve a fundamental right or a suspect class.²³ The court also determined that the law was not "fundamentally unfair in a *constitutional* sense (i.e., in violation of the Due Process Clause)" and that "[e]xisting case law offers no support that the Due Process Clause extends" so far as to protect a person's driver's license from state deprivation.²⁴

The district court ruled for the plaintiffs on their procedural due process argument, finding that both the Michigan and U.S. Supreme Courts had recognized a property interest in an individual's driver's license, which merits procedural due process protection.²⁵ The court determined that the state did not "afford the appropriate notice and opportunity for hearing before revoking a driver's license."²⁶ It thus granted the preliminary injunction, enjoining the Secretary of State from suspending the driver's licenses of "people unable to pay their traffic debt."²⁷

The Sixth Circuit reversed and remanded.²⁸ Writing for the panel, Judge Batchelder²⁹ found that the Michigan law did not violate the Fourteenth Amendment because the state's suspension scheme was not "devoid of a rational basis."³⁰ After addressing the Secretary's subject matter jurisdiction challenges,³¹ the court reviewed the plaintiffs' procedural due process claim that they were entitled to an "ability to pay" hearing prior to the deprivation of their driver's licenses.³² The panel determined that the Constitution did not require Michigan to provide a hearing before suspending a driver's license on the basis of unpaid fees.³³

The majority acknowledged that Supreme Court precedent recognizes a "protectible property interest in a driver's license under state law," but determined that Michigan law did not create the "specific property entitlement" at issue³⁴: a right for indigent individuals "to be exempt from driver's-license suspension[s] on the basis of unpaid court

²³ *Id.* at *7.

²⁴ *Id.*

²⁵ *Id.* at *10.

²⁶ *Id.* The court likewise found that the other factors relevant to the preliminary injunction analysis weighed in favor of the plaintiffs. *Id.* at *12.

²⁷ *Id.* at *13. The Secretary of State subsequently filed an emergency motion for stay pending appeal, which the district court denied. *Fowler v. Johnson*, No. 17-11441, 2017 WL 6540926, at *6 (E.D. Mich. Dec. 21, 2017). The Secretary appealed, and the Sixth Circuit remanded for consideration of the plaintiffs' standing. *Fowler v. Johnson*, No. 17-11441, 2018 WL 1737122, at *2-4 (E.D. Mich. Apr. 11, 2018). The district court then found that the plaintiffs had standing. *Id.* at *6.

²⁸ *Fowler*, 924 F.3d at 252.

²⁹ Judge Batchelder was joined by Judge Thapar.

³⁰ *Fowler*, 924 F.3d at 252.

³¹ *Id.* at 254-55. The court ruled against the Secretary of State on each of the challenges.

³² *Id.* at 256.

³³ *Id.* at 256-58.

³⁴ *Id.* at 257. The court cited to *Board of Regents of State Colleges v. Roth*, 408 U.S. 564 (1972), to show that the *kind* of property interest was determinative. *Fowler*, 924 F.3d at 256-57.

debt.”³⁵ The court found state law dispositive, and because Michigan’s law did not take “indigency status” into account for license suspensions,³⁶ the court rejected the plaintiffs’ claim that they had a right, “as indigent individuals, in maintaining their driver’s licenses when state law requires they be suspended due to unpaid court debt.”³⁷ As such, they had no legal entitlement to a hearing before their licenses were suspended.³⁸ The court concluded that plaintiffs would not likely succeed on their procedural due process claim.³⁹

Next, the panel rejected the plaintiffs’ additional claims under *Griffin v. Illinois*.⁴⁰ In *Griffin*, the U.S. Supreme Court held that a state may not grant appellate review in a way that discriminates against defendants based on wealth.⁴¹ The *Fowler* court differentiated the plaintiffs’ case, finding that *Griffin* concerned a “liberty” interest (freedom from incarceration) rather than a “property” interest and was thus not applicable.⁴² In any case, the court found that Michigan’s law survived rational basis review because it comported with the state’s “general interest in compliance with traffic laws.”⁴³

Judge Donald dissented.⁴⁴ She argued that the Supreme Court established a property interest in the “continued possession” of a driver’s license that is “not to be taken away without . . . procedural due process.”⁴⁵ Accordingly, she determined the state had not given “sufficient notice before it deprived [the plaintiffs] of their driver’s licenses.”⁴⁶ She also addressed the equal protection claims, finding that the majority had drawn an “arbitrary line between liberty and property” when it denied the plaintiffs’ *Griffin* claims.⁴⁷ She invoked the idea that states cannot punish the indigent more harshly “solely because [they are] unable to

³⁵ *Fowler*, 924 F.3d at 257–58.

³⁶ *Id.*

³⁷ *Id.* at 256.

³⁸ *Id.* at 259.

³⁹ *Id.* at 260.

⁴⁰ *Id.* While the district court construed *Griffin* as a due process issue, *Fowler v. Johnson*, No. 17-11441, 2017 WL 6379676, at *6 (E.D. Mich. Dec. 14, 2017), the Sixth Circuit construed it as an equal protection claim, while also acknowledging its due process elements, *Fowler*, 924 F.3d at 260.

⁴¹ *Griffin v. Illinois*, 351 U.S. 12, 18 (1956).

⁴² *Fowler*, 924 F.3d at 260–61. The court maintained that property interests are due a lesser degree of legal protection than are fundamental liberty interests. *Id.*

⁴³ *Id.* at 262. Lastly, the court rejected the plaintiffs’ argument of extraordinary debt collection under *James v. Strange*, 407 U.S. 128 (1972). *Fowler*, 924 F.3d at 263. *Strange* invalidated a Kansas recoupment statute under the Equal Protection Clause because it deprived indigent defendants of protections they would have otherwise received as civil debtors. *Strange*, 407 U.S. at 139–40. The *Fowler* majority determined that Michigan is “uniquely empowered to grant, suspend, or reinstate driver’s licenses” and was thus not bound by the same rules as private creditors. *Fowler*, 924 F.3d at 263.

⁴⁴ *Fowler*, 924 F.3d at 264 (Donald, J., dissenting).

⁴⁵ *Id.* at 266 (quoting *Bell v. Burson*, 402 U.S. 535, 539 (1971)).

⁴⁶ *Id.* at 268.

⁴⁷ *Id.*

pay,”⁴⁸ and pointed to precedent indicating that this principle extends beyond issues of personal freedom.⁴⁹

The Constitution establishes that the states may not deprive any person of life, liberty, or property without due process.⁵⁰ Procedural due process requires that states provide notice and an opportunity to be heard before such deprivations.⁵¹ Meanwhile, substantive due process — the crux of a *Griffin* claim — requires the state to *justify* an infringement on life, liberty, or property interests,⁵² subject to varying standards of scrutiny.⁵³ In the *Griffin* line of cases, which notably led to the 1983 case *Bearden v. Georgia*,⁵⁴ the Supreme Court applied a heightened level of scrutiny to deprivations that would seemingly receive rational basis review, if not for the disproportionate effects on low-income individuals.⁵⁵ In *Fowler*, the Sixth Circuit looked only to the rational basis of the law,⁵⁶ even though the law in question disproportionately deprives poor people of an essential property interest.⁵⁷ The court declined to apply *Griffin* in *Fowler* on the ground that a person’s property interest in maintaining a driver’s license is less important than a person’s interest in personal liberty.⁵⁸ Though the interest at stake in *Fowler* — the right to a driver’s license — was not given the same weight as the liberty interest in *Griffin*, the importance it holds in today’s society demands that it should be.

Griffin is the first in a line of cases in which the government deprived liberty in a way that would ordinarily respect due process but for the fact that the process turned on ability to pay.⁵⁹ In *Griffin*, indigent defendants invoked the Fourteenth Amendment to challenge the requirement that they pay for trial transcripts necessary to appeal their

⁴⁸ *Id.* at 271 (alteration in original) (quoting *Williams v. Illinois*, 399 U.S. 235, 242 (1970)).

⁴⁹ *Id.* at 271–72.

⁵⁰ U.S. CONST. amend. XIV, § 1; *see also* *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976); *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 313 (1950).

⁵¹ Erwin Chemerinsky, *Substantive Due Process*, 15 *TOURO L. REV.* 1501, 1502 (1999).

⁵² *See id.*

⁵³ *See* Richard H. Fallon, Jr., *Some Confusions About Due Process, Judicial Review, and Constitutional Remedies*, 93 *COLUM. L. REV.* 309, 314–15 (1993).

⁵⁴ 461 U.S. 660 (1983).

⁵⁵ *See* Brandon L. Garrett, *Wealth, Equal Protection, and Due Process*, 61 *WM. & MARY L. REV.* 397, 420–21 (2019).

⁵⁶ *Fowler*, 924 F.3d at 261–62.

⁵⁷ *See, e.g.*, James Craven, *Driver’s License Suspension Reform: The Right Road for Michigan*, REASON FOUND. 10–12 (Apr. 2018), <https://reason.org/wp-content/uploads/2018/04/michigan-suspended-drivers-license-reform.pdf> [<https://perma.cc/L6PB-CPNF>]; Niraj Warikoo, *Trapped in Poverty by Traffic Tickets*, DETROIT FREE PRESS (May 24, 2017, 7:54 PM), <https://www.freep.com/story/news/2017/05/24/drivers-license-suspension-lawsuit/324861001> [<https://perma.cc/66NW-2EP3>].

⁵⁸ *Fowler*, 924 F.3d at 260–61.

⁵⁹ *See* Kenji Yoshino, *The New Equal Protection*, 124 *HARV. L. REV.* 747, 790 (2011) (conceptualizing the Supreme Court’s recognition of “certain liberties, such as the right to travel, the right to vote, and the right to access the courts . . . [as a] ‘substantive rights’ strand of equal protection . . . [with] equality inflections relating to indigency”).

convictions.⁶⁰ The Court acknowledged that requiring defendants to pay for transcripts would normally respect due process, but explained that when this requirement resulted in different outcomes for poor defendants as a result of their poverty, these otherwise constitutional actions were unconstitutional.⁶¹

This reasoning was likewise extended to *Bearden*. After the defendant in *Bearden* was jailed for failing to pay the fees associated with his probation,⁶² the Court held that defendants cannot be jailed for their failure to pay a fine without first assessing their ability to pay.⁶³ Justice O'Connor noted that "[d]ue process and equal protection principles converge" in cases where defendants' treatment differs by wealth.⁶⁴ Because the two clauses converged, the Court applied heightened review, inquiring into factors such as the interest affected, the law's rationality, and available alternatives.⁶⁵ Thus, while government "intrusions" on rights sometimes involve a standard of review that is in between strict scrutiny and rational basis inquiries,⁶⁶ the Court has also held that residual equal protection concerns justify heightened review of a statute that would ordinarily receive rational basis review.⁶⁷

The Court has extended this modest doctrinal intervention beyond freedom from incarceration to other interests when the rights in question are of basic societal importance.⁶⁸ In *M.L.B. v. S.L.J.*,⁶⁹ for example, the Court extended the *Griffin* and *Bearden* reasoning to an issue unrelated to incarceration when it found that Mississippi had terminated the petitioner's parental rights in violation of the Fourteenth Amendment.⁷⁰ Because her parental rights were conditioned upon her ability to pay fees for appeals, and because the rights involved were ones the Court "ranked

⁶⁰ *Griffin v. Illinois*, 351 U.S. 12, 13, 15 (1956).

⁶¹ *Id.* at 18–20.

⁶² *Bearden v. Georgia*, 461 U.S. 660, 662–63 (1983).

⁶³ *Id.* at 662.

⁶⁴ *Id.* at 665; see also *Garrett*, *supra* note 55, at 416.

⁶⁵ *Bearden*, 461 U.S. at 666–67 (quoting *Williams v. Illinois*, 399 U.S. 235, 260 (1970) (Harlan, J., concurring)).

⁶⁶ See Fallon, *supra* note 53, at 315–18.

⁶⁷ See *Robinson v. Purkey*, 326 F.R.D. 105, 153 (M.D. Tenn. 2018) ("In *Bearden* and elsewhere, the Supreme Court has recognized that . . . 'more is involved . . . than the abstract question whether [the challenged law] discriminates against a suspect class, or whether [the matter at issue] is a fundamental right.'" (second omission and alterations in original) (quoting *Plyler v. Doe*, 457 U.S. 202, 223 (1982))); see also *id.* at 149 (noting that the *Griffin* Court did not use terms like rational basis or strict scrutiny "presumably because those rubrics had not yet taken the firm hold they now possess").

⁶⁸ See, e.g., *M.L.B. v. S.L.J.*, 519 U.S. 102, 107 (1996); *Harper v. Va. Bd. of Elections*, 383 U.S. 663, 668–70 (1966). But see *Ross v. Moffitt*, 417 U.S. 600, 617–18 (1974) (holding that *Griffin* does not grant a right to appointed counsel in a discretionary appeal for indigent defendants).

⁶⁹ 519 U.S. 102.

⁷⁰ *Id.* at 107; see also Pamela S. Karlan, *Equal Protection, Due Process, and the Stereoscopic Fourteenth Amendment*, 33 MCGEORGE L. REV. 473, 482 (2002).

as ‘of basic importance,’⁷¹ the Court found that terminating them would violate the Fourteenth Amendment.⁷² The Court acknowledged that “fee requirements ordinarily are examined only for rationality,” but that there were certain “cases [that] solidly establish two exceptions to that general rule,” exceptions that turned on the question of ability to pay.⁷³

The *Fowler* court refused to apply the *Griffin* framework based on a faulty assumption that liberty and property interests are wholly separate concepts.⁷⁴ The *Fowler* court distinguished *Griffin* “because none of the *Griffin* cases concerned a property interest” — and because a “critical distinction between liberty and property interests” exists.⁷⁵ Yet Supreme Court jurisprudence has made this distinction less clear, undermining the *Fowler* court’s claim. In *Lynch v. Household Finance Corp.*,⁷⁶ the Court held that “the dichotomy between personal liberties and property rights is a false one. . . . [A] fundamental interdependence exists between the personal right to liberty and the personal right in property.”⁷⁷ Similarly, many scholars have noted the overlap in the relationship between “liberty” and “property” and the shift in the Court’s conception of both interests.⁷⁸ The *Fowler* court’s decision to unnecessarily harden the lines between property and liberty interests prevented it from giving the right to a driver’s license its proper due.

Without the impediment of this hardline liberty-property dichotomy, it becomes easier to see the merit in the plaintiffs’ *Griffin* claim, given the importance of driver’s licenses in contemporary society. As the Supreme Court noted in *Bell v. Burson*,⁷⁹ “[o]nce licenses are issued . . . their continued possession may become essential in the pursuit of a livelihood.”⁸⁰ Life today relies largely upon access to a driver’s license. Over eighty percent of Americans commute to work by car,⁸¹ and driver’s licenses are critical for accomplishing the necessary: school, childcare, grocery shopping — or, as in the case of Ms. Harris, doctor’s

⁷¹ *M.L.B.*, 519 U.S. at 116 (quoting *Boddie v. Connecticut*, 401 U.S. 371, 376 (1971)).

⁷² *Id.* at 107.

⁷³ *Id.* at 123.

⁷⁴ See *Fowler*, 924 F.3d at 260–61.

⁷⁵ *Id.*

⁷⁶ 405 U.S. 538 (1972).

⁷⁷ *Id.* at 552.

⁷⁸ See Gerald Gunther, *The Supreme Court, 1971 Term — Foreword: In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection*, 86 HARV. L. REV. 1, 37–38 (1972); see also Wayne McCormack, *Lochner, Liberty, Property, and Human Rights*, 1 N.Y.U. J.L. & LIBERTY 432, 472 (2005); Note, *Resurrecting Economic Rights: The Doctrine of Economic Due Process Reconsidered*, 103 HARV. L. REV. 1363, 1376–77 (1990).

⁷⁹ 402 U.S. 535 (1971).

⁸⁰ *Id.* at 539.

⁸¹ ANDREA M. MARSH, NAT’L CTR. FOR STATE COURTS, TRENDS IN STATE COURTS: RETHINKING DRIVER’S LICENSE SUSPENSIONS FOR NONPAYMENT OF FINES AND FEES 22 (2017), <https://www.ncsc.org/~media/Microsites/Files/Trends%202017/Rethinking-Drivers-License-Suspensions-Trends-2017.ashx> [https://perma.cc/AF62-AS2M].

appointments and other health-related obligations.⁸² Furthermore, driver's license suspensions have a tremendous impact on poor communities. Low- and middle-income jobs often require driver's licenses, and relying on public transportation, when an option, is far more burdensome.⁸³ Many studies have demonstrated the link between a license and employment,⁸⁴ and this link has led the American Bar Association and the Department of Justice to issue guidelines encouraging states to end driver's license suspensions related to debt.⁸⁵

Adrian Fowler's and Kitia Harris's experiences reflect a larger pattern of state-imposed legal financial obligations that, while small in isolation, lead to a tremendous amount of collective debt — often with collateral consequences that make it impossible to pay it back.⁸⁶ Though Michigan's legislature recently voted to erase millions of dollars of court debt and end certain driver fees,⁸⁷ it did not overturn the law in question in *Fowler*. Forty-three states and the District of Columbia currently suspend, revoke, or refuse to renew driver's licenses for unpaid fees,⁸⁸ resulting in over seven million debt-related suspensions nationwide.⁸⁹ Recognizing the interest in a driver's license as one of fundamental importance and subjecting license suspension laws to heightened scrutiny would represent a small doctrinal shift in favor of a more equitable approach. Importantly, doing so would not result in the creation of a new framework; rather, it would recognize the importance of a state-created property interest under due process, and provide a substantive method to review deprivations.

⁸² See DANIELLE CONLEY & ARIEL LEVINSON-WALDMAN, AM. CONST. SOC., DISCRIMINATORY DRIVER'S LICENSE SUSPENSION SCHEMES 1 (Mar. 2019), <https://www.acslaw.org/wp-content/uploads/2019/03/License-Suspension-Issue-Brief-Final.pdf> [<https://perma.cc/WAF9-KVWH>].

⁸³ E.g., ALEX BENDER ET AL., LAWYERS' COMM. FOR CIVIL RIGHTS OF THE S.F. BAY AREA, NOT JUST A FERGUSON PROBLEM: HOW TRAFFIC COURTS DRIVE INEQUALITY IN CALIFORNIA 7 (2015), <http://www.lccr.com/wp-content/uploads/Not-Just-a-Ferguson-Problem-How-Traffic-Courts-Drive-Inequality-in-California-4.8.15.pdf> [<https://perma.cc/S7M7-8C2J>].

⁸⁴ See *id.* at 27 n.70.

⁸⁵ See ABA PRESIDENTIAL TASK FORCE, AM. BAR ASS'N, ABA TEN GUIDELINES ON COURT FINES AND FEES 2–4 (Aug. 2018) https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_ind_10_guidelines_court_fines.pdf [<https://perma.cc/76HS-GW8P>]; Dear Colleague Letter Regarding Law Enforcement Fees and Fines from Vanita Gupta, Principal Deputy Assistant Attorney Gen., Civil Rights Div., Dep't of Justice, & Lisa Foster, Dir., Office for Access to Justice (Mar. 14, 2016), <https://www.courts.wa.gov/subsite/mjc/docs/DOJDearColleague.pdf> [<https://perma.cc/3EBX-G4X7>].

⁸⁶ See Louis Fisher, *Criminal Justice User Fees and the Procedural Aspect of Equal Justice*, 133 HARV. L. REV. F. 112, 114–17 (2020).

⁸⁷ See *Michigan Drivers*, *supra* note 3. As of May 2019, these legislative changes had reinstated licenses for only 37,000 people. *Id.*

⁸⁸ SALAS & CIOLFI, *supra* note 4, at 2.

⁸⁹ Justin Wm. Moyer, *More than 7 Million People May Have Lost Driver's Licenses Because of Traffic Debt*, WASH. POST (May 19, 2018), https://wapo.st/2rX4xaj?tid=ss_tw [<https://perma.cc/G9RZ-JZV8>].