

No. A-_____

In the Supreme Court of the United States

KENNETH JOHN JOUPPI, APPLICANT,

v.

STATE OF ALASKA

**APPLICATION FOR AN EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF ALASKA**

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To the Honorable Elena Kagan, Circuit Justice:

Under this Court’s Rules 13.5, 22, 30.2, and 30.3, Applicant Kenneth John Jouppi applies for a 47-day extension of time—to and including September 2, 2025—within which to file a petition for a writ of certiorari to review the judgment of the Supreme Court of Alaska in this case. That court entered its judgment on April 18, 2025. App. 1a-26a. Unless extended, the time for petitioning for a writ of certiorari will expire on July 17, 2025. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1257(a).

1. In 2019, this Court held that the Eighth Amendment’s “[p]rotection against excessive punitive economic sanctions” is both “‘fundamental to our scheme of ordered liberty’ and ‘deeply rooted in this Nation’s history and tradition.’” *Timbs v. Indiana*, 586 U.S. 146, 154. On that basis, the Court held the Excessive Fines Clause incorporated against the States. With the Clause now applicable nationwide, this case implicates an entrenched split in the state and federal courts on the legal standard for evaluating whether a fine is unconstitutionally excessive. *Compare, e.g., State v. Timbs*, 169 N.E.3d 361, 376 (Ind. 2021) (holding that forfeiting \$35,000 Land Rover for use in low-level drug-dealing offense violated the Excessive Fines Clause), *with* App. 17a-18a, 21a-23a (holding that forfeiting \$95,000 airplane did not violate the Excessive Fines Clause where the pilot was found to have known that a passenger’s luggage contained a six-pack of beer).

2. The State of Alaska has authorized municipalities to declare themselves “dry villages” and prohibit the importation, sale, and possession of alcohol. Alaska Stat. § 04.11.491(a)(5), (b)(4). It is a crime to “knowingly send, transport, or bring an alcoholic beverage” into such a community. *Id.* § 04.11.499(a). In the main, the criminal penalties

depend on the amount of alcohol at issue and whether the defendant is a repeat offender. Transporting 10.5 liters of spirits or 12 gallons of beer is a class C felony. Recidivists face class C felony charges as well, no matter the quantity of alcohol involved. On the less serious end of the spectrum, a first-time offender who transports less than those amounts commits only a class A misdemeanor. *Id.* § 04.16.200(e)(1)-(3). For that first-time offender, the minimum sentence is three days' imprisonment and a \$1,500 fine.

And, potentially, forfeiture. Using a plane to transport the alcohol subjects the plane to mandatory forfeiture—no matter the amount of alcohol and no matter the seriousness of the offense. *Id.* § 04.16.220(i)(1). Using a boat or a car to commit the same offense exposes those vehicles to forfeiture only if the person is a recidivist or a parolee or was transporting a sizable quantity of alcohol. *Id.* § 04.16.220(i)(2). Airplanes, however, are “always subject to mandatory forfeiture . . . regardless of whether the conviction is a misdemeanor or felony or is the defendant’s first conviction.” App. 19a.

3.a. For decades, applicant Ken Jouppi made a living using his 1969 Cessna U206D as a one-man air-taxi service, shuttling passengers over the Alaskan wilderness. A pilot since 1965, he is now in his early 80s and retired.

He was still working, however, on the morning of April 3, 2012. That day, he was scheduled to fly a repeat passenger from Fairbanks to the village of Beaver, located 110 miles to the north—a dry village. Along with her other groceries, Jouppi’s passenger had three cases of beer packed in her luggage. She herself was not a drinker. But she was travelling to Beaver to celebrate her birthday with her husband; the beer (Budweiser and Bud Light) was for him. *See* 8/22/2013 Tr. 247-48, 256.

As Ken Jouppi was loading the plane, alcohol-interdiction officers arrived on scene, searched the plane, and found the beer. While Jouppi insisted he had no idea there was any beer in his passenger's luggage, the officers maintained that, at a minimum, one six-pack of Budweiser was clearly visible in a shopping bag. So the State charged Jouppi, his company (Ken Air LLC), and his passenger with the misdemeanor offense of knowingly transporting or bringing an alcoholic beverage into a dry community. The passenger pleaded guilty. Jouppi and the company went to trial and ultimately were found guilty by way of a verdict that expressed no finding on how much alcohol he knew was aboard his plane. The trial judge imposed the minimum executed sentence allowed: a \$1,500 fine for Jouppi (and another \$1,500 for his company) and three days' imprisonment. App. 4a ("The court sentenced Jouppi to 180 days in jail with 177 suspended, a \$3,000 fine with \$1,500 suspended, and three years of probation.").

b. Since 2012, the State has also been trying to forfeit Jouppi's plane. At first, the trial court held that the forfeiture was not authorized by the statute. The plane had not flown a foot toward the village of Beaver, the judge reasoned, so it couldn't be said to have been "used to transport or facilitate the transportation" of the beer. Alaska Stat. § 04.16.220(a)(3)(C). The Alaska Court of Appeals disagreed and remanded. On remand, the trial court then held a hearing on Jouppi's excessive-fines defense (the plane is owned by him, not by his company) and held that the forfeiture amounted to an excessive fine. Back on appeal, the court of appeals vacated the trial court's judgment, concluding that the trial court should have further developed the factual record.

The Alaska Supreme Court then granted review and held that both of the lower courts had erred. In the supreme court’s view, no further factfinding was necessary; as a matter of law, forfeiting Jouppi’s plane was not grossly disproportional to the gravity of his offense, hence not excessive.

In so holding, the court staked out a legal standard that bears no resemblance to this Court’s and that spotlights the division among state and federal courts nationwide. The key teaching of this Court’s excessive-fines precedent is this: “[i]t is critical . . . that the court review the specific actions of the violator rather than by taking an abstract view of the violation.” *Thomas v. County of Humboldt*, 124 F.4th 1179, 1193 (9th Cir. 2024) (citation omitted); *see also Timbs*, 169 N.E.3d at 373. At every turn, however, the Alaska Supreme Court parted ways with that principle. In this Court’s wellspring excessive-fines decision, for example (*United States v. Bajakajian*), the Court considered it “highly relevant” whether the defendant’s offense was “unrelated to any other crime.” 524 U.S. 321, 338 n.12 (1998). The Alaska court held the opposite: “[i]t is not particularly relevant,” the court reasoned, “whether Jouppi’s offense was part of a larger pattern of criminal activity.” App. 23a. This Court in *Bajakajian* examined the actual harm caused by the defendant before it. 524 U.S. at 339; *see also, e.g., Timbs*, 169 N.E.3d at 373 (“[S]uch an analysis—focusing on the specific harms of specific acts—is in line with the Supreme Court’s reasoning in *United States v. Bajakajian*.”); *Commonwealth v. 1997 Chevrolet*, 160 A.3d 153, 190 (Pa. 2017) (“[W]e find generic considerations of harm to be largely unhelpful in this regard . . .”). Again, the Alaska court did the opposite: it saddled Jouppi with the evils of alcohol abuse writ large and pronounced that “the illegal importation of even a six-pack of beer causes grave societal

harm.” App. 21a. This Court in *Bajakajian* homed in on the defendant’s “culpability relative to other potential violators” of the statute by examining the defendant’s guidelines sentence and the sentence actually imposed on him. 524 U.S. at 339 & n.14; *see also, e.g., State v. Timbs*, 134 N.E.3d 12, 37 (Ind. 2019); *State v. Real Prop.*, 994 P.2d 1254, 1261 (Utah 2000). The Alaska court again charted a different path: it looked to the maximum statutory fine available for the theoretical worst-case offender. App. 20a-21a. Simply, the Alaska Supreme Court harnessed an excessiveness standard that breaks at a bedrock level from that used by other courts—including those of the circuit in which Alaska sits. The end-result speaks for itself: an airplane forfeited over a six-pack.

4. Applicant requests a 47-day extension of time, to and including September 2, 2025, within which to file a petition for a writ of certiorari. Counsel at the Institute for Justice did not represent Ken Jouppi in the Alaska state courts, they have only recently entered into an attorney-client relationship with him, and they would benefit from additional time to familiarize themselves with the state-court record—spanning 13 years of proceedings—and to prepare the petition. Along with previously scheduled travel and family obligations (July 12-20 for Mr. Gedge and July 2-6 for Mr. Greenberg), counsel also have multiple competing litigation deadlines. *E.g., Davis v. City of Chicago*, No. 25-1910 (7th Cir.) (opening brief due July 7); *Coleman v. Town of Brookside*, No. 22-cv-423 (N.D. Ala.) (mediation statement due June 30; discovery-sanctions motion anticipated to be filed on or before July 7; in-person mediation scheduled for July 8-9; depositions anticipated for late July and early August); *State v. Henry Minh & \$42,825.00*, No. 49D04-2405-MI-020041 (Ind. Super. Ct.) (proposed findings of fact and conclusions of law on class-certification motion

due July 1); *Sandersville R.R. Co. v. Garrett*, No. S25X1169 (Ga.) (response brief due July 7); *Garrett v. Sandersville R.R. Co.*, No. S25A1168 (Ga.) (reply brief due July 17). Applicant thus respectfully submits that the requested 47-day extension is supported by good cause.

Respectfully submitted.



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