

No. _____

IN THE
Supreme Court of the United States

WILLIAM T. COOLEY,
Petitioner,

v.

UNITED STATES,
Respondent.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals for the
Armed Forces**

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Major General William T. Cooley was found guilty of one nonconsensual kiss. For that conviction, he was sentenced to forfeit over \$50,000 of his pay. The Government demonstrated no harm to any party to justify such a high fine and no state law equivalent permits a fine of this size.

Does General Cooley's sentence to forfeit over \$50,000 of his pay constitute an "excessive fine[]" imposed" in violation of the Eighth Amendment?

PARTIES TO THE PROCEEDING

All parties to this proceeding appear in the caption on the cover page of this petition. Those parties are Major General (General) William T. Cooley, the Petitioner, and the United States, the Respondent.

CORPORATE DISCLOSURE STATEMENT

No nongovernmental corporations are parties to this proceeding.

RELATED PROCEEDINGS

Other than the direct appeals that form the basis for this petition, there are no related proceedings for the purposes of Rule 14.1(b)(iii).

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INTRODUCTION

On a summer weekend in August 2018, General Cooley was visiting his brother and his parents in Albuquerque, New Mexico. Pet. App. 7a. On the night of August 12th, General Cooley attended a barbecue at his brother's house, along with his parents and his brother's wife, the complaining witness (CW). Pet. App. 7a. After an evening of drinking, CW offered to let General Cooley stay at their house, rather than spending the night at his parents' home as he planned. Pet. App. 7a-8a. General Cooley agreed, and CW took him to his parents' house to retrieve his suitcase. Pet. App. 8a.

On the drive to his parents' house, General Cooley confessed that he had romantic feelings for CW and held her hand. Pet. App. 8a. Upon arriving at the parents' home, CW waited for him to get his suitcase. Pet. App. 8a. CW then drove General Cooley to her house. Pet. App. 8a-9a. After arriving at CW's home, the two exited the car and General Cooley kissed CW. Pet. App. 9a. For this kiss, which CW claimed was nonconsensual, General Cooley was sentenced to forfeit \$50,000 of his pay. Pet. App. 5a.

This sentence constitutes an unconstitutional fine because "it bears no articulable correlation to any injury suffered" by either the Government or CW. *United States v. Bajakajian*, 524 U.S. 321, 339-40 (1998), *superseded on other grounds by statute*, USA Patriot Act, Pub. L. No. 107-56, § 319, 115 Stat. 272, 311 (2001), *as recognized in United States v. Jose*, 499 F.3d 105, 109 (1st Cir. 2007).

While the Air Force Court of Criminal Appeals (Air Force Court) seemed to recognize the forfeiture of pay constituted a fine, Pet. App. 37a-38a, it failed to

analyze whether the fine was unconstitutional. Pet. App. 38a. The Court of Appeals for the Armed Forces (CAAF) declined to review this issue. Pet. App. 1a-2a.

This Court should grant review to set aside General Cooley's unconstitutional sentence. Alternatively, this Court should summarily grant and remand to the CAAF to consider this issue.

PETITION FOR A WRIT OF CERTIORARI

Major General William T. Cooley, United States Air Force, respectfully petitions for a writ of certiorari to review the decision of the CAAF declining to review his case.

DECISIONS BELOW

The decision of the Air Force Court is unreported. It is available at 2025 CCA LEXIS 342, 2025 WL 2157848, and is reproduced at pages 3a-43a. The CAAF's decision denying review of General Cooley's case is not yet reported. It is available at 2026 CAAF LEXIS 16, 2026 WL 373997, and reproduced at page 1a-2a.

JURISDICTION

The court of first instance exercised federal jurisdiction pursuant to 10 U.S.C. § 802(a)(1). The Air Force Court had jurisdiction over this matter pursuant to Article 66, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 866. The CAAF had jurisdiction pursuant to Article 67(a)(3), UCMJ, 10 U.S.C. § 867(a)(3). The CAAF declined to grant review and issued its order denying review on January 6, 2026. This Court granted General Cooley's application for an extension of time to and including June 5, 2026. This Court has jurisdiction pursuant to 28 U.S.C. § 1259(3).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Eighth Amendment of the United States Constitution provides: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

STATEMENT OF THE CASE

I. General Cooley visited his family in Albuquerque, New Mexico.

In August 2018, General Cooley was the commander of the Air Force Research Laboratory and stationed at Wright-Patterson Air Force Base in Ohio. Pet. App. 6a. General Cooley’s brother worked as an Air Force civilian at Kirtland Air Force Base in New Mexico. Pet. App. 6a. General Cooley’s sister-in-law, CW, also worked at Kirtland. Pet. App. 6a.

In early August 2018, General Cooley was in Albuquerque for work. On August 11th, General Cooley spent the night with his brother and CW at their home. Pet. App. 7a. The next day, August 12th, General Cooley left his brother’s house and spent the day at his parents’ home, also in Albuquerque. Pet. App. 7a. General Cooley planned to spend the night of August 12th at his parents’ house, so he took his belongings with him. Pet. App. 7a-8a.

II. General Cooley attended a barbecue.

Later that same day, General Cooley and his parents attended a barbeque at the brother’s home. Pet. App. 7a. Among others, CW was also present at this barbecue. Pet. App. 7a. Both CW and General Cooley drank alcoholic beverages. Pet. App. 7a.

After everyone else, including the parents, left the barbecue, General Cooley and his brother continued socializing in the brother's home. Pet. App. 7a. At some point, CW and the brother offered to let General Cooley stay the night at their house again instead of having General Cooley stay at his parents' home. Pet. App. 7a-8a. But General Cooley's suitcase was still at the parents' house. Pet. App. 8a.

III. The drive to General Cooley's parents' house.

CW agreed to drive General Cooley to his parents' home to get his suitcase. Pet. App. 8a. On that drive, General Cooley expressed romantic interest in CW and placed his hand over hers. Pet. App. 8a. CW, who had known General Cooley for thirty years, was "stunned" because he "had never done anything like this before." Pet. App. 8a.

Upon arriving at the parents' home, General Cooley went inside to get his suitcase. Pet. App. 8a. While CW testified that she was shaking and "trying to collect [her] thoughts," Pet. App. 8a (alteration in original), she did not tell General Cooley he could not spend the night at her house. Pet. App. 8a. Instead, she allowed him to retrieve his suitcase and drove him back to her home. Pet. App. 8a.

On the drive back to her house, CW alleged that General Cooley grabbed her hand and made her touch his genitals over his clothes. Pet. App. 9a. General Cooley was acquitted of this offense. Pet. App. 4a-5a. Once they got back to CW's home, they exited the vehicle. Pet. App. 9a. General Cooley approached CW and kissed her on the mouth with his mouth. Pet. App. 9a.

General Cooley was convicted only of this apparently nonconsensual kiss. Pet. App. 4a-5a.

IV. The sentencing hearing.

At the sentencing hearing, General Cooley submitted eighty-three pages of exhibits, including character letters, military citations and decorations, training reports, career information, and a statement. Def. Ex. J-P. Many of the character letters were provided by general officers and senior executive service members. *See, e.g.*, Def. Ex. J. Those character letters exulted General Cooley's military service, his character before, during, and after the allegations in this case, as well as his "great" rehabilitative potential. Def. Ex. J.

General Cooley also put on evidence of his distinguished military career, including having received the following decorations: the Meritorious Service Medal with oak leaf clusters, a Bronze Star Medal, and a Legion of Merit Award, among many others. Def. Ex. K.

In his statement to the court-martial, General Cooley apologized to everyone involved in the situation, including CW and his brother. Def. Ex. P. General Cooley explained that the allegations against him ended his career, forced family and friends to disappear from his life, and that his mental health was negatively impacted. Def. Ex. P.

General Cooley will forever be remembered as the first general officer to be court-martialed in Air Force history. Def. Ex. P. Perhaps worse, while General Cooley would not be guilty of a sex offense for his convicted conduct today, *see* 10 U.S.C. § 920 (2024), his conviction under the old Section 920 means that

he will be a lifelong sex offender registrant. Def. Ex. P.

V. The Air Force Court declined to address the unconstitutional fine issue. The CAAF likewise declined to review it.

General Cooley was ultimately sentenced to forfeit \$10,910 pay per month for five months, or a total of \$54,550. Pet. App. 5a, 38a.

At the Air Force Court, General Cooley challenged this fine as both unconstitutional under the Eighth Amendment and inappropriately severe under Article 66, UCMJ, 10 U.S.C. § 866. While the Air Force Court recognized that the forfeiture of pay constituted a fine for Eighth Amendment purposes, Pet. App. at 37a-38a, it declined to analyze whether that fine was unconstitutional. Pet. App. 37a-39a. The CAAF also declined to review this issue. Pet. App. 1a-2a.

REASONS FOR GRANTING THE PETITION

Despite being convicted only of a nonconsensual kiss, General Cooley was sentenced to a fine of \$54,550. This fine bears “no articulable correlation to any injury suffered” by the Government or CW. *Bajakajian*, 524 U.S. at 339-40. As a result, this Court should grant review to hold that General Cooley’s fine was unconstitutional under the Eighth Amendment.

I. In courts-martial, one available sentence is “forfeiture of pay.” Forfeitures of pay constitute a fine under the Eighth Amendment.

Rule for Courts-Martial (R.C.M.) 1003 provides that one available punishment for a court-martial to adjudge is “forfeiture of pay.” This forfeiture, if adjudged, “deprives the accused of the amount of pay . . . specified.” R.C.M. 1003, *discussion*. While R.C.M.

1003 also authorizes a fine as a punishment, military courts have recognized that forfeitures also operate as fines. See *United States v. Stebbins*, 61 M.J. 366, 370-72 (C.A.A.F. 2005) (discussing the historical development of both the fine and forfeiture of pay as a punishment in the military).¹

Specifically, in *United States v. Sumrall*, the CAAF analyzed retirement forfeitures under the Eighth Amendment’s “excessive fine” prohibition. 45 M.J. 207, 210 (C.A.A.F. 1996). While the CAAF ultimately found that the retirement pay forfeited in that case was “clearly speculative” because it depended on predicting the appellant’s life expectancy, it nevertheless reasoned that forfeitures constitute a fine for Eighth Amendment purposes. *Id.*

These cases are also in line with this Court’s understanding of a “fine” under the Eighth Amendment. This Court has recognized that, at the time of the Founding, “the word ‘fine’ was understood to mean a payment to a sovereign as punishment for some offense.” *Bajakajian*, 524 U.S. at 328-29 (quoting *Browning-Ferris Industries of Vt., Inc. v. Kelco Disposal, Inc.*, 492 U.S. 257, 265 (1989)). A court-martial forfeiture operates in the same way—it is a payment to the federal government by way of taking

¹ *Stebbins* was overruled on other grounds by *United States v. Mangahas*, 77 M.J. 220 (C.A.A.F. 2018). *Mangahas* was itself overruled by this Court in *United States v. Briggs*, 592 U.S. 69 (2020).

pay otherwise owed by the Government to the servicemember.

Therefore, the forfeiture in this case constitutes a fine under the Eighth Amendment.

II. The fine adjudged to General Cooley in this case violates the Eighth Amendment’s prohibition against excessive fines.

The Eighth Amendment prohibits the imposition of “excessive fines.” U.S. Const. amend. VIII. “The Excessive Fines Clause thus limits the [G]overnment’s power to extract payments, whether in cash or in kind, as punishment for some offense. Forfeitures – payments in kind – are thus fines [within the meaning of the Eighth Amendment] if they constitute punishment for an offense.” *Bajakajian*, 524 U.S. at 334 (internal marks and citation omitted); see *Austin v. United States*, 509 U.S. 602, 609-10 (1993).

When a fine is “grossly disproportional to the gravity of” an offense, that fine is unconstitutional under the Eighth Amendment. *Bajakajian*, 524 U.S. at 336-40. In assessing the proportionality of the fine, courts look for a correlation between the amount fined and the injury suffered. *Id.* at 340.

For example, in *Bajakajian*, this Court found a fine of over \$350,000 unconstitutional because the harm to the other party—the Government—was minimal. *Id.* at 339. Here, the only party harmed by General Cooley’s actions were his brother and CW. And any harm caused was minimal. After all, General Cooley was convicted of only once kissing CW without her consent. The Government presented little evidence that this nonconsensual kiss caused harm to CW, the Government, or General Cooley’s brother. Therefore,

the adjudged forfeitures constitute an unconstitutional fine.

A fine of this size for this crime is unprecedented. No other jurisdiction in the United States allows for a fine over \$50,000 for such an offense. *See* Supplement to the Petition for Grant of Review, *United States v. Cooley*, __ M.J. __, No. 25-0277/AF, 2026 CAAF LEXIS 16, 2026 WL 373997 (C.A.A.F. Jan. 6, 2026), at App'x B (detailing state law in all fifty states for the same conduct).

The fine here is made even more excessive when considering the collateral consequence General Cooley must undergo—lifetime sex offender registration for a kiss—and the mitigating evidence in this case. After all, General Cooley served with distinction throughout his military career, was highly decorated, and presented significant character evidence of his rehabilitative potential and great character. *See* Def. Ex. J-P.

Despite the relatively mild nature of this offense and significant evidence of mitigation, General Cooley was fined over \$50,000. This fine, which exceeds all state statutory limits for similar offenses, is grossly disproportionate to the harm caused and, is therefore, unconstitutional.

CONCLUSION

No state in the country authorizes a fine of this size for the conduct of which General Cooley was convicted. Coupled with the lack of harm to any party demonstrated by the Government in this case, General Cooley's \$54,550 fine is unconstitutionally excessive. This Court should grant review to set aside that sentence. Alternatively, this Court can

summarily grant review and remand to the CAAF for further consideration.

Respectfully submitted,

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