No. 25-246

In the Supreme Court of the United States

KENNETH JOHN JOUPPI, PETITIONER

v.

STATE OF ALASKA

On Petition for a Writ of Certiorari
to the Supreme Court of Alaska

SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

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SUPPLEMENTAL BRIEF

The Court appears to have been holding this petition pending a decision in *Pung* v. *Isabella County*, 609 U.S. ___ (2026). Now issued, the decision in *Pung* casts no doubt on the cert-worthiness of the petition here. Broadly speaking, the Eighth Amendment's Excessive Fines Clause implicates two distinct inquiries: (a) whether a "fine" has been imposed in the first place; and (b) if one has, whether it is "excessive." *Pung* concerned the first inquiry. The question presented in this case concerns only the second: whether, in determining whether a fine contravenes the Excessive Fines Clause, courts may consider the gravity of the underlying offense purely in the abstract or should consider the gravity of the specific defendant's wrongdoing. Pet. i.

Given that *Pung* proved largely irrelevant to this case, plenary review continues to be warranted. Just last week, in fact, three Justices of the Washington Supreme Court identified the Alaska Supreme Court's decision below as emblematic of the "circuit split as to what level of abstraction is appropriate to apply when considering the nature and extent of the violation" in an excessive-fines case. *State* v. *Meta Platforms, Inc.*, ___ P.3d ___, ___, No. 103748-1, 2026 WL 1755638, at *37 n.16 (Wash. June 18, 2026) (McCloud, J., dissenting) (citing Pet. 15-27). And as a vehicle for certiorari, this case could hardly be cleaner; as the State of Alaska acknowledges, the decision below did indeed bless the forfeiture of an airplane based on "one six-pack and . . . no related misconduct." Opp. 14. If any excessive-fines case captures the need for this Court's intervention, it is this one.[*]

[*] Grants of certiorari following holds for decisions in previously granted cases appear to occur with some regularity. *E.g.*, *Little* v.

1. As the Alaska Supreme Court recognized below, "an excessive fines challenge requires a two-step analysis." Pet. App. 11a. The courts first "must determine whether" the challenged imposition "is a 'fine' within the meaning of the Excessive Fines Clause." Pet. App. 11a. If it is, the courts "must then conduct a proportionality analysis" to determine whether the fine is "unconstitutionally excessive." Pet. App. 11a-12a.

Pung implicates the first question alone: whether Isabella County imposed a fine on the petitioner at all. *See Pung* v. *Kopke*, No. 22-1919, 2025 WL 318222, at *5 (6th Cir. Jan. 28, 2025) ("[T]he . . . tax forfeiture scheme does not fall within the ambit of the Eighth Amendment."). Like the Sixth Circuit, this Court answered that question in the negative. 609 U.S. at ___ (slip op. at 12) (applying *Austin* v. *United States*, 509 U.S. 602 (1993)). Given that resolution, the Court had no occasion to consider "the second stage of inquiry under the Excessive Fines Clause" or address the standard for determining whether a fine "is so large as to be 'excessive.'" *United States* v. *Ursery*, 518 U.S. 267, 287 (1996).

Ken Jouppi's petition, in contrast, directly implicates that second stage of the excessive-fines analysis. Unlike in *Pung*, criminally forfeiting Jouppi's airplane is a paradigmatic fine within the meaning of the Eighth Amendment—a point the State freely concedes. Opp. 31 ("The

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Hecox, 145 S. Ct. 2871 (2025) (mem.) (granting petition held for *United States* v. *Skrmetti*, 605 U.S. 495 (2025)); *West Virginia* v. *B.P.J. ex rel. Jackson*, 146 S. Ct. 57 (2025) (mem.) (granting petition held for *Skrmetti*, *supra*); *Collins* v. *Mnuchin*, 591 U.S. 1028 (2020) (mem.) (granting petition held for *Seila Law LLC* v. *CFPB*, 591 U.S. 197 (2020)); *AMG Cap. Mgmt., LLC* v. *FTC*, 591 U.S. 1028 (2020) (mem.) (granting petition held for *Liu* v. *SEC*, 591 U.S. 71 (2020)); *Williams* v. *Illinois*, 564 U.S. 1052 (2011) (mem.) (granting petition held for *Bullcoming* v. *New Mexico*, 564 U.S. 647 (2011)).

forfeiture at issue is subject to the Eighth Amendment because the State proceeded *in personam* . . . .”). For its part, this Court has likewise recognized that “*in personam*, criminal forfeitures” have “historically been treated as punitive.” *United States* v. *Bajakajian*, 524 U.S. 321, 332 (1998); *see also Alexander* v. *United States*, 509 U.S. 544, 558-59 & n.4 (1993). So, too, did the Alaska Supreme Court below. Pet. App. 12a. With that threshold issue off the table, that court then “proceed[ed] to the second step of Excessive Fines Clause analysis to determine whether the forfeiture is unconstitutionally excessive.” Pet. App. 16a. And in doing so, it evaluated the gravity of Jouppi’s wrongdoing at a stratospheric level of abstraction. *See* Pet. 27-29. The end result: an airplane forfeited for a passenger’s six-pack of beer. The petition here thus cleanly presents a question that *Pung* did not: not about whether any “fine” has been imposed at all, but about the standard for determining whether an undisputedly punitive fine is “excessive.”

2. What was true before *Pung* remains equally true after: The decision below captures vividly a lower-court conflict over the standard for evaluating the gravity of a defendant’s offense under the Excessive Fines Clause. Again, just a week ago, three Justices of a state high court pointed to precisely the split identified in our petition in the course of analyzing an excessive-fines question. *Meta Platforms, Inc.*, 2026 WL 1755638, at *37 n.16 (McCloud, J., dissenting) (citing Pet. 15-27).

Addressing that split is well worth this Court’s time. Just seven years ago, the Court recognized the right secured by the Excessive Fines Clause as “fundamental to our scheme of ordered liberty.” *Timbs* v. *Indiana*, 586 U.S. 146, 154 (2019) (citation omitted); *see also id.* at 169 (Thomas, J., concurring in the judgment). At the same

time, however, the excessiveness standard of Alaska and a growing minority of other jurisdictions has all but "eliminat[ed] much of the check that law—whether it be the English or American Bill of Rights—is meant to have upon the power to fine the People." *Robson 200, LLC* v. *City of Lakeland*, 593 F. Supp. 3d 1110, 1121 (M.D. Fla. 2022) (Mizelle, J.). As this case spotlights, moreover, the Excessive Fines Clause is as vital now as ever. Across the Nation, state actors "increasingly depend heavily on fines and fees as a source of general revenue." *Timbs*, 586 U.S. at 154 (citation omitted). And more often than not, those hardest hit are not the well-to-do, but people of more modest means. *Culley* v. *Marshall*, 601 U.S. 377, 406-07 (2024) (Sotomayor, J., dissenting); *see also id.* at 397 (Gorsuch, J., concurring). In short, the Excessive Fines Clause was enshrined in the Bill of Rights for good reason. The question presented here is important, and this case remains an ideal vehicle for addressing it.

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The petition for a writ of certiorari should be granted.

Respectfully submitted.

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