No.

IN THE SUPREME COURT OF THE UNITED STATES

NEAL LEE MINTON, PETITIONER,

v.

STATE OF FLORIDA, RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI TO THE FOURTH DISTRICT COURT OF APPEAL OF FLORIDA

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the state court erred in upholding, contrary to *U.S. v. Bajakajian*, 524 U.S. 321 (1998), and the Excessive Fines Clause, a mandatory fine pursuant to a statute that does not allow any proportionality considerations?

2. Whether the state court erred in affirming, contrary to the holdings of the supreme courts of other states and the Excessive Fines Clause, fines and surcharges imposed under statutes that do not allow consideration of the defendant's ability to pay?

RELATED PROCEEDINGS

Fifteenth Judicial Circuit of Florida:

State v. Minton, 2022CF003172 A (December 1, 2023)

Fourth District Court of Appeal of Florida:

Minton v. State, 4D2024–2701 (December 4, 2025; rehearing denied December 17, 2025)

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PETITION FOR A WRIT OF CERTIORARI

Neal Lee Minton respectfully petitions for a writ of certiorari to review the judgment of the Fourth District Court of Appeal of Florida in this case.

OPINION BELOW

The decision of Florida's Fourth District Court of Appeal is reported as *Minton v. State*, 425 So. 3d 38 (Fla. 4th DCA 2025) (table).

JURISDICTION

Florida's Fourth District Court of Appeal affirmed Petitioner's convictions and sentences without written opinion on December 4, 2025. 1a. The court denied his motion for rehearing, issuance of written opinion and certification to the state supreme court on December 17, 2025. 2a.

The Florida Supreme Court is "a court of limited jurisdiction," *Mallet v. State*, 280 So. 3d 1091, 1092 (Fla. 2019) (citation omitted), Specifically, it has no jurisdiction to review district court of appeal decisions entered without written opinion. *Jackson v. State*, 926 So. 2d 1262, 1266 (Fla. 2006). Hence, Petitioner could not seek review in that court. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS

The Eighth Amendment:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The Fourteenth Amendment:

> Section 1
>
> … . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal

protection of the laws.

Section 893.135, Florida Statutes (2023):

> (f)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of … methamphetamine, as described in s. 893.03(2)(c)5. … commits a felony of the first degree, which felony shall be known as "trafficking in amphetamine," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:
>
> a. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.
>
> b. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

Section 938.04, Florida Statutes (2023):

> 938.04 Additional cost with respect to criminal fines.—In addition to any fine for any criminal offense prescribed by law, including a criminal traffic offense, and in addition to the cost imposed pursuant to the provisions of s. 318.14(10), there is hereby established and created as a court cost an additional 5-percent surcharge thereon which shall be imposed, levied, and collected together with such fine or cost imposed pursuant to s. 318.14(10). The additional court cost created under this section shall be remitted to the Department of Revenue for deposit in the Crimes Compensation Trust Fund created by s. 960.21.

STATEMENT OF THE CASE

Petitioner was charged by amended information in Florida's Nineteenth Judicial Circuit in 2023 with two counts of simple sale of, or possession with intent to sell, methamphetamine (counts one and four), one count of trafficking in 28 to 200 grams of methamphetamine (count two), and one count of trafficking in 14 to 28 grams of methamphetamine (count three). R 16.

The record shows that count 2 (trafficking in 28 grams or more) was based on a sale of 29 grams for $350. 51a. Count 3 was based on the sale of 15 grams for $20. 54a.

In 2024, Petitioner entered a no contest plea to the charges. After further proceedings involving Petitioner's motion to vacate the plea, the court adjudicated Petitioner guilty and imposed concurrent ten year sentences for all four counts. Pursuant to section 893.135 (f)(1), Florida Statutes, the sentence for count two included a seven year mandatory minimum and a mandatory $100,000 fine, and the count three sentence had a three year mandatory minimum and a mandatory $50,000 fine. The written sentence conformed to the oral pronouncement, R 223–31, except that it also imposed surcharges on the fines, under section 938.04,

Florida Statutes. R 226, 228.

Petitioner sought review in the Fourth District Court of Appeal.

Before filing an initial brief, Petitioner filed a motion to correct sentence pursuant to Florida Criminal Rule 3.800(b)(2). The motion argued that the assessments were imposed under statutes that violate the Excessive Fines Clauses of the state and federal constitutions in that they are mandatory and have no provision for consideration of individualized proportionality, and no provision of consideration of a defendant's ability to pay. R 275–315.

Under rule 3.800(b)(2), a defendant may challenge a fine or cost for the first time in a post-sentencing motion to correct sentence. *See Ellzey v. State*, 158 So. 3d 688, 691 (Fla. 1st DCA 2015); *Shaw v. State*, 418 So. 3d 183, 185–86 (Fla. 4th DCA 2025) (rejecting on the merits arguments identical to Petitioner's where issue was raised for first time on rule 3.800(b)(2) motion), *rev. denied* No. SC2025-1430, 2025 WL 3707590 (Fla. Dec. 22, 2025). The same is true for challenges to the constitutionality of sentencing statutes. The state supreme court has held that a rule 3.800(b) motion is an appropriate vehicle raising a challenge to the constitutionality of a sentencing statute. *See Jackson v. State*, 983

So. 2d 562, 572–73 (Fla. 2008) (stating claims that may be raised via rule 3.800(b) include "that a sentencing statute was unconstitutional"). Further, a sentence imposed pursuant to an unconstitutional sentencing provision constitutes fundamental error and hence may be raised for the first time on appeal. *State v. Johnson*, 616 So. 2d 1, 3–4 (Fla. 1993) (holding defendant could raise for the first time on appeal challenge to constitutionality of habitual offender statute).

After the trial court denied the motion, Petitioner made the same arguments in the appellate court. 3a–36a; 42a–54a. He also argued that the trial court erred in failing to honor his assertion of his right to represent himself. 37a–36a (initial brief); 38a–49a (reply brief).

The Fourth District affirmed the convictions and sentences without opinion on December 4, 2025. 1a. It denied Petitioner's motion for rehearing, issuance of written opinion and certification to the state supreme court on December 17, 2025. 2a.

Petitioner now seeks review in this Court.

REASONS FOR GRANTING THE PETITION

FLORIDA'S MANDATORY FINE AND SURCHARGE STATUTES VIOLATE THE EXCESSIVE FINES CLAUSE.

The Excessive Fines Clause arises from the common law. *See U.S. v. Bajakajian*, 524 U.S. 321, 335–36 (1998) (discussing common law background of Excessive Fines Clause); *City of Seattle v. Long*, 493 P.3d 94, 111–13 (Wash. 2021) (detailing common law leading up to adoption of Excessive Fines Clause).

In the present case, mandatory fines totaling $150,000, with additional mandatory surcharges of $7,500, were imposed on Petitioner, an indigent, for the sale of small amounts of methamphetamines for a total amount of $370.

The fines were imposed under section 893.135 (f)(1), Florida Statutes, which provides:

> (f)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of … methamphetamine, as described in s. 893.03(2)(c)5. … commits a felony of the first degree, which felony shall be known as "trafficking in amphetamine," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:
>
> a. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.

> b. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

The surcharges were imposed under section 938.04, Florida Statutes, which provides that: "In addition to any fine for any criminal offense prescribed by law, … there is hereby established and created as a court cost an additional 5-percent surcharge thereon which shall be imposed."

Florida appellate courts have held such mandatory fines and surcharges for drug trafficking do not violate the Excessive Fines Clause. Thus, several months before it entered its decision in Petitioner's case, the Fourth District Court of Appeal upheld fines imposed for trafficking in cocaine and fentanyl and summarized the relevant case law:

> On appeal, the defendant first argues only *one* of the two $50,000 fines was announced at sentencing, but a second was included in the final judgment. He argues that because the fines were *not* mandatory, they needed to be orally pronounced. The defendant also argues the $50,000 fines violate the eighth amendment's excessive fines clause.
>
> The State responds the fines and surcharges are mandatory and need not be orally pronounced. The State further responds the fines are not excessive. We agree with the State.

> "A motion to correct a sentencing error is reviewed de novo." *See Bailes v. State*, 382 So. 3d 1, 5 (Fla. 4th DCA 2024) (citing *Guadagno v. State*, 291 So. 3d 962, 962 (Fla. 4th DCA 2020)).
>
> Here, both $50,000 fines are mandatory per the respective cocaine and fentanyl trafficking statutes. *See* §§ 893.135(1)(b)(1)(a) and 893.135(1)(c)(4)(b), Fla. Stat. (2022). Therefore, the trial court was not required to orally pronounce them. *See Douchard v. State*, 357 So. 3d 142, 148 (Fla. 4th DCA 2023) (citing *Finkelstein v. State*, 944 So. 2d 1226, 1227 (Fla. 4th DCA 2006)). And, we have previously upheld the constitutionality of similar fines against a constitutionally excessive challenge. *See Stephenson v. State*, 368 So. 3d 5, 6 (Fla. 4th DCA 2023) (citing *Gordon v. State*, 139 So. 3d 958, 964 (Fla. 2d DCA 2014)). We therefore affirm.

Shaw v. State, 418 So. 3d 183, 185–86 (Fla. 4th DCA 2025), *rev. denied* No. SC2025-1430, 2025 WL 3707590 (Fla. Dec. 22, 2025).

These statutes are unconstitutional under the Excessive Fines Clause because they provide for no individualized assessment of whether the fine is disproportionate to the defendant's crime and do not provide for any consideration of the defendant's ability to pay.

> <u>There must be individualized determination of the proportionality of the fine</u>

In *U.S. v. Bajakajian*, 524 U.S. 321 (1998), the defendant was arrested while trying to leave the country with $357,144 in cash. He was charged with, and plead guilty to, the federal crime of failure to report exported currency. *Id.* at 327.

The relevant statute provided that the sentencing court "shall order that the person forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property." *Id.* at 325 (quoting 18 U.S.C. § 982(a)(1)).

The district court ruled that the forfeiture amount violated the Excessive Fines Clause and reduced the amount to $15,000. *Id.* at 326. On appeal by the government, the judge's ruling was affirmed by the Ninth Circuit. *Id.* at 326-27. This Court granted review and also ruled for the defendant.

Although the forfeiture was required by statute, the Court held it violated the Excessive Fines Clause: "The question in this case is whether forfeiture of the entire $357,144 that respondent failed to declare would violate the Excessive Fines Clause of the Eighth Amendment. We hold that it would, because full forfeiture of respondent's currency would be grossly disproportional to the gravity of his offense." *Bajakajian*, 524 U.S. at 324. (Bajakajian did not contest imposition of the $15,000 forfeiture actually imposed. Hence, the Court stated: "Our holding … reflects no judgment" as to the constitutionality of $15,000 assessment actually imposed. *Id.* at 337 n.11.)

The Court said it was "irrelevant whether respondent's currency is an instrumentality; the forfeiture is punitive, and the test for the excessiveness of a punitive forfeiture involves solely a proportionality determination." *Id.* at 333–34.

"In applying this standard, the district courts in the first instance, and the courts of appeals, reviewing the proportionality determination *de novo,* must compare the amount of the forfeiture to the gravity of the defendant's offense. If the amount of the forfeiture is grossly disproportional to the gravity of the defendant's offense, it is unconstitutional." *Id.* at 336–37.

Thus, under *Bajakajian* a forfeiture or fine may be disproportionate and excessive even though the defendant violated the statute authorizing it. A court may not merely mechanically apply the statute — the constitution requires an individualized determination in each case.

In this case, an assessment totaling $157,500 was imposed on Petitioner. The assessment was grossly disproportional to offenses involving low level drug sales for a total amount of $370. 51a, 54a.

The Florida statutes in this case do not allow any individualized determination of proportionality. *Shaw*, 418 So. 3d at

185–86 (summarizing case law and holding that drug offense fines are mandatory). Hence, they are unconstitutional under *Bajakajian,* as are the resulting assessments imposed on Petitioner.

There must be individualized determination of the defendant's ability to pay.

Ability to pay was not at issue in *Bajakajian* as the defendant never raised that issue: "Respondent does not argue that his wealth or income are relevant to the proportionality determination or that full forfeiture would deprive him of his livelihood, and the District Court made no factual findings in this respect." *Id.* at 340 n.15 (internal citation omitted).

The Court noted, however, that the Excessive Fines Clause arose from the common law requirement that a fine or forfeiture "should not deprive a wrongdoer of his livelihood." *Id.* at 335.

In *Timbs v. Indiana*, 586 U.S. 146 (2019), the Court held that the Excessive Fines Clause applies to the states through the Fourteenth Amendment.

The Court notes that the Excessive Fines Clause incorporates the common law rule that economic sanctions must both "be proportioned to the wrong" and "not be so large as to deprive [an

offender] of his livelihood." *Id.* at 151 (quoting *Browning-Ferris v. Kelco*, 492 U.S. 257, 271 (1989)).

Blackstone wrote that at common law no one "shall have a larger amercement imposed … than his circumstances or personal estate will bear." 4 William Blackstone, Commentaries on the Laws of England *372 (1769). (An "amercement" was "a fine or penalty." AMERCEMENT, Black's Law Dictionary (12th ed. 2024).)

This principle was well-established by the time of *Jones v. Commonwealth*, 5 Va. 555, 557–58 (Va. 1799). A jury had ordered four persons to pay a joint fine. After the death of one of the four, the others claimed the assessment should be reversed because they should be required to pay only amounts in accord with their estate (that is, their ability to pay). Judges Roan and Carrington held that the assessment had to be reversed. Judge Roan wrote that conclusion was "bottomed upon an article of *magna charta,* that fines be imposed *secundum quantitatem delicti salvo contenemento*," and supported "by the clause of the bill of rights prohibiting excessive fines and the act of 1786 founded on the spirit of it and providing, that the fine should be according to the degree of the fault and the estate of the offender." *Id.* at 556–57. ("According to

the degree of the fault and the estate of the offender" is a translation of the Latin phrase.) Judge Carrington wrote: "It is said, that in every information or indictment the fine or amercement ought to be according to the degree of the fault and the estate of the defendant." *Id.* at 557.

The third member of the court, President Pendleton agreed as to the law, but dissented as to the result, writing that the jury had made its decision based on each individual's "ability to pay." *Id.* at 560.

After *Timbs*, some courts have found unconstitutional mandatory fines under statutes that do not provide for assessment of the defendant's ability to pay. *See State v. Gibbons*, 545 P.3d 686 (Mont. 2024) (finding statute facially unconstitutional to the extent that whenever the sentencing judge imposes a mandatory minimum $5,000 fine for fifth or subsequent DUI conviction, the statute does not allow the judge to consider "the proportionality factors protecting an offender from excessive fines"); *City of Seattle v. Long*, 493 P.3d 94, 112–13 (Wash. 2021) (holding a court considering whether a fine is constitutionally excessive should consider ability to pay and surveying case law nationwide).

On the other hand, the Seventh Circuit has declined to consider ability to pay, saying that *Timbs* did not decide that issue. *Grashoff v. Adams*, 65 F.4th 910, 921 (7th Cir. 2023). The Ninth Circuit has likewise held that *Timbs* "left the question open," adding: "We, too, decline Pimentel's invitation to affirmatively incorporate a means-testing requirement for claims arising under the Eighth Amendment's Excessive Fines Clause."*Pimentel v. City of Los Angeles*, 974 F.3d 917, 925 (9th Cir. 2020).

Others have expressed uncertainty as to whether *Timbs* requires such considerations. *See Raftery v. State Bd. of Ret.*, 263 N.E.3d 833, 845 n.14 (Mass. 2025) (discussing *Timbs* and noting divergence of opinions interpreting *Bajakajian*); *Yates v. Pinellas Hematology & Oncology, P.A.*, 21 F.4th 1288, 1320–24 (11th Cir. 2021) (Newsom, J., concurring) (same).

Petitioner submits that this Court should accept jurisdiction and resolve this conflict regarding whether a court must consider the defendant's ability to pay under the Excessive Fines Clause.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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