

USAFCCA: Small Sums Swiped Can Cost Service Members Their Military Careers

By Lisa M. Windsor

Service members should be very careful about "self help" in recovering funds loaned to someone else, because, as a recent U.S. Air Force Court of Criminal Appeals (USAFCCA) ruling illustrates, wrongful repossession of as little as \$26 dollars can severely impact their military careers.

In the case of U.S. v. Cooper

, Airman First Class Megan L. Cooper, an Air Force took \$26 dollars from another airman's ID card holder when she briefly left the holder unattended in a dormitory briefing room. The victim reported the theft, but when confronted by security forces personnel Cooper denied stealing the money. At a special court martial

, Airman Cooper was convicted pursuant to a guilty plea of dereliction of duty, making a false official statement, larceny and forgery in violation of the Uniform Code of Military Justice, and was sentenced to a bad conduct discharge (BCD), six months of confinement, forfeiture of \$933 pay per month for six months and a reduction to E-1.

Airman Cooper appealed to the USAFCCA, claiming that the military judge failed to adequately inquire into a potential defense prior to accepting her plea to one of her two larceny specifications. Specifically, she claimed that she had loaned the other airman money approximately two weeks before the incident, and having not received repayment she "took it into my own hands." The USAFCCA, however, didn't buy her "self help" defense and affirmed the lower court's ruling.

What service members need to know:

Under Article 121, service members generally commit larceny or wrongful appropriation when they take, obtain or withhold money, property or articles of value belonging to someone else with the intent to permanently deprive the owner of the use and benefit of the item.

As the USAFCCA noted in this case, "only an honest belief in a superior claim of right will give rise to a potential defense of larceny."

An agreement with a debtor or his or her permission to seize property to satisfy a debt could serve as the foundation for such a defense.

In Cooper

, the court ruled this potential defense did not apply to the Airman because she had already admitted she wrongfully took the \$26 and did not have the victim's permission or agreement.

Service members accused of larceny should immediately assert their right to talk to an attorney, who can inform them of whether any such potential defenses apply.

Lisa M. Windsor

is Of Counsel with Tully Rinckey PLLC and concentrates his practice in military law and criminal defense. She can be reached at lwindsor@fedattorney.com

. To schedule a meeting with one of Tully Rinckey PLLC's experienced military law attorneys call 202-787-1900.