No.

IN THE SUPREME COURT OF THE UNITED STATES

WISBEN SANON, PETITIONER

v.

STATE OF FLORIDA, RESPONDENT.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

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DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

WISBEN SANON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D22-713

[April 12, 2023]

Appeal from the Circuit Court of the Nineteenth Judicial Circuit, St. Lucie County; Lawrence M. Mirman, Judge; L.T. Case No. 562017CF001914.

Carey Haughwout, Public Defender, and Paul Edward Petillo, Assistant Public Defender, West Palm Beach, for appellant.

Ashley Moody, Attorney General, Tallahassee, and Anesha Worthy, Assistant Attorney General, West Palm Beach, for appellee.

FORST, J.

Appellant Wisben Sanon appeals his conviction for several sexual assault crimes, raising two arguments on appeal. First, Sanon argues his conviction by a six-person jury violated his rights under the Sixth Amendment to the United States Constitution. We have recently addressed this issue and affirm without discussion. *See Guzman v. State*, 350 So. 3d 72 (Fla. 4th DCA 2022).

Second, Sanon contends the State made improper rebuttal closing argument when it showed the jury a placard with the reasonable doubt instruction juxtaposed with the phrase "motive plus opportunity is not reasonable doubt." The State explained this was a reference to Sanon's defense that he had been framed for the charged crimes and the jury should find reasonable doubt attributable to the accusers' motive and opportunity to plant damaging evidence.

We review a trial court's control of prosecutorial closing comments for abuse of discretion. *Narcisse v. State*, 166 So. 3d 954, 956 (Fla. 4th DCA 2015). In exercising that discretion, trial courts will properly permit the

parties "wide latitude in closing argument to a jury." *Stephens v. State*, 975 So. 2d 405, 421 (Fla. 2007).

As a response to Sanon's primary defense, the State's rebuttal closing argument was well within that latitude. *See State v. Compo*, 651 So. 2d 127, 130 (Fla. 2d DCA 1995) ("Fundamental notions of fairness require[] that the state be allowed to comment on . . . issues raised by the defendant."). Moreover, the State informed the jury that the objected-to statement "is obviously not part of the instruction [on reasonable doubt]."

Upon further defense objection, the trial court clarified that the prosecution was merely emphasizing what was and what was not in the agreed-upon reasonable doubt jury instruction, with the court informing the jury "what is and what isn't reasonable doubt, ladies and gentlemen, will ultimately be for you to decide." The trial court's comments, on top of the State's explanation, "remov[ed] any question of an improper taint on the jury's understanding of the burden of proof." *Thomas v. State*, 726 So. 2d 369, 372 (Fla. 4th DCA 1999). We accordingly find no error.

Affirmed.

GROSS and CONNER, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

POINT II

APPELLANT WAS ENTITLED TO A TWELVE-PERSON JURY UNDER THE SIXTH AND FOURTEENTH AMENDMENTS AND HE DID NOT WAIVE THAT RIGHT

Appellant was convicted of felonies by a jury comprised of a mere six people. T 212. He argues that the Sixth and Fourteenth Amendments guarantee the right to a twelve-person jury when the defendant is charged with a felony. The standard of review of constitutional claims is de novo. *See A.B. v. Florida Dept. of Children & Family Services*, 901 So. 2d 324, 326 (Fla. 3d DCA 2005).

Although the Supreme Court held in *Williams v. Florida*, 399 U.S. 78, 86 (1970), that juries as small as six were constitutionally permissible, *Williams* is impossible to square with the Supreme Court's ruling in *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020), which concluded that the Sixth Amendment's "trial by an impartial jury" requirement encompasses what the term "meant at the Sixth Amendment's adoption," *id*. at 1395.

Prior to 1970, subjecting appellant to a trial with only six jurors would have indisputably violated his Sixth Amendment rights. As the *Ramos* Court observed, even Blackstone recognized that under the common law, "no person could be found guilty of a

serious crime unless 'the truth of every accusation … should … be confirmed by the unanimous suffrage of twelve of his equals and neighbors[.]" 140 S. Ct. at 1395. "A 'verdict, taken from eleven, was no verdict' at all." *Id.*

After the Sixth Amendment was enacted, a bevy of state courts—ranging from Alabama to Missouri to New Hampshire—interpreted it to require a twelve-person jury. *See Miller*, *Comment, Six of One Is Not A Dozen of the Other*, 146 U. Pa. L. Rev. 621, 643 n.133 (1998) (collecting cases from the late 1700s to the 1860s). In 1898, the U.S. Supreme Court added its voice to the chorus, noting that the Sixth Amendment protects a defendant's right to be tried by a twelve-person jury. *Thompson v. Utah*, 170 U.S. 343, 349-350 (1898). As the *Thompson* Court explained, since the time of Magna Carta, the word "jury" had been understood to mean a body of twelve people. *Id.* Given that understanding had been accepted since 1215, the Court reasoned, "[i]t must" have been "that the word 'jury'" in the Sixth Amendment was "placed in the constitution of the United States with reference to [that] meaning affixed to [it]." *Id.* at 350.

The Supreme Court continued to cite the basic principle that the Sixth Amendment requires a twelve-person jury in criminal cases for seventy more years. For example, in 1900, the Court explained that "there [could] be no doubt" "[t]hat a jury composed, as at common law, of twelve jurors was intended by the Sixth Amendment to the Federal Constitution." *Maxwell v. Dow*, 176 U.S. 581, 586 (1900). Thirty years later, the Court reiterated that it was "not open to question" that "the phrase 'trial by jury'" in the Constitution incorporated juries' "essential elements" as "they were recognized in this country and England," including the requirement that they "consist of twelve men, neither more nor less." *Patton v. United States*, 281 U.S. 276, 288 (1930). And as recently as 1968, the Court remarked that "by the time our Constitution was written, jury trial in criminal cases had been in existence for several centuries and carried impressive credentials traced by many to Magna Carta," such as the necessary inclusion of twelve members. *Duncan v. Louisiana*, 391 U.S. 145, 151-152 (1968).[1]

[1] *See also*, *e.g.*, *Capital Traction Co v. Hof*, 174 U.S. 1, 13 (1899) ("'Trial by jury,' in the primary and usual sense of the term at the common law and in the American constitutions, is not merely a trial by a jury of 12 men" but also contains other requirements);

In 1970, however, the *Williams* Court overruled this line of precedent in a decision that Justice Harlan described as "stripping off the livery of history from the jury trial" and ignoring both "the intent of the Framers" and the Court's long held understanding that constitutional "provisions are framed in the language of the English common law [] and … read in the light of its history." *Baldwin v. New York*, 399 U.S. 117, 122-123 (1970) (citation omitted) (Harlan, J., concurring in the result in *Williams*). Indeed, *Williams* recognized that the Framers "may well" have had "the usual expectation" in drafting the Sixth Amendment "that the jury would consist of 12" members. *Williams*, 399 U.S. at 98-99. But *Williams* concluded that such "purely historical considerations" were not dispositive. *Id.* at 99. Rather, the Court focused on the "function" that the jury plays in the Constitution, concluding that the "essential feature" of a jury is it leaves justice to the "commonsense judgment of a group of laymen" and thus allows "guilt or innocence" to be determined via

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Rassmussen v. United States, 197 U.S. 516, 529 (1905) ("The constitutional requirement that 'the trial of all crimes, except in cases of impeachment, shall be by jury,' means, as this court has adjudged, a trial by the historical, common-law jury of twelve persons").

"community participation and [with] shared responsibility." *Id.* at 100-01. According to the *Williams* Court, both "currently available evidence [and] theory" suggested that function could just as easily be performed with six jurors as with twelve. *Id.* at 101-102 & n.48; *cf. Burch v. Louisiana*, 441 U.S. 130, 137 (1979) (acknowledging that *Williams* and its progeny "departed from the strictly historical requirements of jury trial").

Williams's ruling that the Sixth Amendment (as incorporated to the States by the Fourteenth) permits a six-person jury cannot stand in light of *Ramos*. There, the Supreme Court held that the Sixth Amendment requires a unanimous verdict to convict a defendant of a serious offense. In reaching that conclusion, the Ramos Court overturned *Apodaca v. Oregon*, 406 U.S. 404 (1972), a decision that it faulted for "subject[ing] the ancient guarantee of a unanimous jury verdict to its own functionalist assessment." 140 S. Ct. at 1401-1402.

That reasoning undermines *Williams* as well. *Ramos* rejected the same kind of "cost-benefit analysis" the Court undertook in *Williams*, observing that it is not the Court's role to "distinguish between the historic features of common law jury trials that (we

think) serve 'important enough functions to migrate silently into the Sixth Amendment and those that don't.'" 140 S. Ct. at 1400-01. Ultimately, the *Ramos* Court explained, the question is whether "at the time of the Sixth Amendment's adoption, the right to trial by jury included" the particular feature at issue. *Id.* at 1402. As the history summarized above establishes, there can be no serious doubt that the common understanding of the jury trial during the Revolutionary War era was that twelve jurors were required—"a verdict, taken from eleven, was no verdict at all." *See* 140 S. Ct. at 1395 (quotation marks omitted).

Even setting aside *Williams's* now-disfavored functionalist logic, its ruling suffered from another significant flaw: it was based on research that was out of date shortly after the opinion issued. Specifically, the *Williams* Court "f[ou]nd little reason to think" that the goals of the jury guarantee—including, among others, "to provide a fair possibility for obtaining a representative[] cross-section of the community"—"are in any meaningful sense less likely to be achieved when the jury numbers six, than when it numbers 12." *Id.* at 100. The Court theorized that "in practice the difference between the 12-man and the six-man jury in terms of the cross-

section of the community represented seems likely to be negligible." *Id*. at 102.

In the time since *Williams*, that determination has proven incorrect. Indeed, the Court acknowledged as much just eight years later in *Ballew v. Georgia*, 435 U.S. 223 (1978), when it concluded that the Sixth Amendment barred the use of a five-person jury. Although *Ballew* did not overturn *Williams*, the *Ballew* Court observed that empirical studies conducted in the handful of intervening years highlighted several problems with *Williams'* assumptions. For example, Ballew noted that more recent research showed that (1) "smaller juries are less likely to foster effective group deliberation," *id*. at 233, (2) smaller juries may be less accurate and cause "increasing inconsistency" in verdict results, *id*. at 234, (3) the chance for hung juries decreases with smaller juries, disproportionally harming the defendant, *id*. at 236; and (4) decreasing jury sizes "foretell[] problems … for the representation of minority groups in the community," undermining a jury's likelihood of being "truly representative of the community," *id*. at 236-37. Moreover, the *Ballew* Court "admit[ted]" that it "d[id] not pretend to discern a clear line between six members and five," effectively

acknowledging that the studies it relied on also cast doubt on the effectiveness of the six-member jury. *Id.* at 239; *see also id.* at 245-46 (Powell, J.) (agreeing that five-member juries are unconstitutional, while acknowledging that "the line between five- and six-member juries is difficult to justify").

Post-*Ballew* research has further undermined *Williams*. Current empirical evidence indicates that "reducing jury size inevitably has a drastic effect on the representation of minority group members on the jury." Diamond et al., *Achieving Diversity on the Jury: Jury Size and the Peremptory Challenge*, 6 J. of Empirical Legal Stud. 425, 427 (Sept. 2009); *see also* Higginbotham et al., *Better by the Dozen: Bringing Back the Twelve-Person Civil Jury*, 104 Judicature 47, 52 (Summer 2020) ("Larger juries are also more inclusive and more representative of the community. … In reality, cutting the size of the jury dramatically increases the chance of excluding minorities."). Because "the 12-member jury produces significantly greater heterogeneity than does the six-member jury," Diamond et al., *Achieving Diversity on the Jury*, *supra*, at 449, it increases "the opportunity for meaningful and appropriate

representation" and helps ensure that juries "represent adequately a cross-section of the community." *Ballew*, 435 U.S. at 237.[2]

In overruling *Apodaca*, *Ramos* rejected the "same fundamental mode of analysis as that in *Williams*." *Ramos*, 140 S. Ct. at 1436 (Alito, J., dissenting). If *Apodaca* relied on the reasoning of *Williams*, and *Apodaca* has been overruled, where does that leave *Williams*? As Judge Makar wrote: "It seems a small step from the demise of the reasoning in *Apodaca* . . . as announced in *Ramos* to conclude that the reasoning in *Williams*, upon which [*Apodaca*] relied, is also in jeopardy." *Phillips v. State*, 316 So. 3d 779, 788 (Fla. 1st DCA 2021), *rev. denied*, 2021 WL 3077438 (Fla. July 21, 2021), and *cert.*

[2] Consider that in In the two years before Covid (2018 and 2019), there were 4649 non-capital (i.e., six person) felony jury trials in Florida. http://trialstats.flcourts.org/ Under the Sixth Amendment there should have been 55,788 jurors participating in this important governmental function; instead there were 27,894 jurors.

denied sub nom. Phillips v. Florida, 211 L. Ed. 2d 406 (2021) (Makar, J., concurring).[3]

Other important considerations also weigh in favor of the twelve-member jury. For instance, studies indicate that twelve-member juries deliberate longer, recall evidence better, and rely less on irrelevant factors during deliberation. *See* Smith & Saks, *The Case for Overturning Williams v. Florida and the Six-Person Jury*, 60 Fla. L. Rev. 441, 465 (2008). Minority views are also more likely to be thoroughly expressed in a larger jury, as "having a large minority helps make the minority subgroup more influential," and, unsurprisingly, "the chance of minority members having allies is greater on a twelve-person jury." *Id.* at 466. Finally, larger juries deliver more predictable results. In the civil context, for example, "[s]ix-person juries are four times more likely to return extremely high or low damage awards compared to the average." Higginbotham et al., *Better by the Dozen*, *supra*, at 52.

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[3] Nothing can be read into the fact that the United States Supreme Court denied certiorari in *Phillips*. "The significance of a denial of a petition for certiorari ought no longer require discussion. This Court has said again and again and again that such a denial has no legal significance whatever bearing on the merits of the claim." *Ramos*, 206 L. Ed. 2d 583 n.56 (cleaned up).

Appellant recognizes that the state constitution provides:

> SECTION 22. Trial by jury.—The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law.

Art. I, § 22, Fla. Const. And he recognizes that section 913.10, Florida Statutes, provides for six jurors except in capital cases. *See also* Fla. R. Crim. P. 3.270.

But Florida's provision for a jury of six stems from the dawn of the Jim Crow era, one month after federal troops were withdrawn from the state. The historical background is as follows:

In 1875, the Jury Clause of the 1868 constitution was amended to provide that the number of jurors "for the trial of causes in any court may be fixed by law." *See Florida Fertilizer & Mfg. Co. v. Boswell*, 34 So. 241, 241 (Fla. 1903).

The common law rule of a jury of twelve was still kept in Florida while federal troops remained in the state. There was no provision for a jury of less than twelve until the Legislature enacted a provision specifying a jury of six in Chapter 3010, section 6. *See Gibson v. State*, 16 Fla. 291, 297–98 (1877) (quoting and discussing Chapter 3010, section 6, Laws of Florida (1877)); *Florida Fertilizer*,

34 So. 15 241 (noting that previously all juries had twelve members).

The Legislature enacted chapter 3010 with the jury-of-six provision on February 17, 1877. *Gibson*, 16 Fla. 294. This was less than a month after the last federal troops were withdrawn from Florida in January 1877. *See* Jerrell H. Shofner, *Reconstruction and Renewal, 1865-1877*, in *The History of Florida* 273 (Michael Gannon, ed., first paperback edition 2018) ("there were [no federal troops" in Florida after 23 January 1877").

The jury-of-six thus first saw light at the birth of the Jim Crow era as former Confederates regained power in southern states and state prosecutors made a concerted effort to prevent blacks from serving on jurors.

On its face the 1868 constitution extended the franchise to black men. But the historical context shows that that it was part of the overall resistance to Reconstruction efforts to protect the rights of black citizens. The constitution was the product of a remarkable series of events including a coup in which leaders of the white southern (or native) faction took possession of the assembly hall in the middle of the night, excluding Radical Republican delegates

from the proceedings. *See* Richard L. Hume, *Membership of the Florida Constitutional Convention of 1868: A Case Study of Republican Factionalism in the Reconstruction South*, 51 Fla. Hist. Q. 1, 5-6 (1972); Shofner at 266. A reconciliation was effected as the "outside" whites "united with the majority of the body's native whites to frame a constitution designed to continue white dominance." Hume at 15.

The racist purpose of the resulting constitution was spelled out by Harrison Reed, a leader of the prevailing faction and the first governor elected under the 1868 constitution, who wrote to Senator Yulee that the new constitution was constructed to bar blacks from legislative office:

> Under our Constitution the Judiciary & State officers will be appointed & the apportionment will prevent a negro legislature.

Hume, 15-16. *See also* Shofner 266.

In *Ramos*, Justice Gorsuch noted that the Louisiana non-unanimity rule arose from Jim Crow era efforts to enforce white supremacy. *Id.* at 1394; *see also id.* at 1417 (Kavanaugh, J., concurring) (non-unanimity was enacted "as one pillar of a comprehensive and brutal program of racist Jim Crow measures

against African-Americans, especially in voting and jury service."). The history of Florida's jury of six arises from the same historical context.

In view of the foregoing, a jury of six at a criminal trial for a crime punishable by up to life imprisonment is unconstitutional under the Sixth and Fourteenth Amendments of the United States Constitution.

Finally, appellant did not waive his Sixth Amendment right to a twelve-person jury. A defendant may waive his right to a constitutional jury, but the "express and intelligent consent of the defendant" is required. *Patton*, 281 U.S. at 312.

In *Johnson v. State*, 994 So. 2d 960 (Fla. 2008), for example, Johnson was charged with felony DUI, which is committing DUI with three prior DUI convictions. *Johnson*, 994 So. 2d at 962. After a jury found Johnson guilty of the base offense of DUI, the trial court, by stipulation, became the factfinder as to the prior DUI convictions. The trial court found that Johnson had the requisite prior convictions and adjudicated him guilty of felony DUI.

Johnson appealed, and this Court affirmed, holding that Johnson's counsel's stipulation that the trial court act as factfinder

was a valid waiver of Johnson's Sixth Amendment right to have a jury decide the prior-convictions element. *Johnson v. State*, 944 So. 2d 474, 476-77 (Fla. 4th DCA 2006).

Johnson sought review in the Florida Supreme Court. The supreme court held that defense counsel's stipulation was insufficient, that Johnson's personal waiver of his jury-trial right was required. *Johnson*, 994 So. 2d at 963. "Further, a defendant's silence does not establish a valid waiver of the right to a jury trial." *Id.* Thus, Johnson could raise this issue for the first time on appeal: "[B]ecause a defendant's silence clearly does not constitute a valid waiver, it logically follows that defendants are not required to break their silence (through either a request for a jury trial or an objection to the bench trial) to preserve appellate review of this claim. Here, just as Johnson's silence was insufficient to waive his right to a jury trial, his silence was insufficient to waive appellate review of this claim." *Id.* at 964 (citation omitted).

As in *Johnson*, appellant's failure to raise this issue in the lower court "does not constitute a waiver of appellate review on this claim." *Id.*

The Third District's decision in *Jimenez v. State*, 167 So. 3d 497 (Fla. 3d DCA 2015), *rev. denied*, 192 So. 3d 38 (Fla. 2015), supports appellant's argument. Jimenez was tried by a jury of six people when he should have been tried by a jury of twelve people (he was charged with first-degree murder, a capital offense). This violated section 913.10, Florida Statutes, and Florida Rule of Criminal Procedure 3.270. This was not fundamental error, the Third District said, because the "right to a jury of twelve persons is not of constitutional dimension. Rather, it is a right provided by state statute and in the corresponding Florida Rule of Criminal Procedure." *Jimenez*, 167 So. 3d at 499 (citations omitted). The court continued: "Jimenez was not denied his constitutional right to a trial by jury. Rather, he was provided with a trial by jury, but consisting of six rather than twelve persons. While this failed to comply with the statutory requirement, it was not fundamental error such that it could have been raised for the first time on appeal." *Id.* (citations omitted).

Jimenez was issued before *Ramos* effectively overruled *Williams*. Appellant's argument is that a jury of twelve persons is of "constitutional dimension." *Jimenez* implies that if it is an issue of

"constitutional dimension," then it may be raised for the first time on appeal.

This Court should reverse the judgment and sentence and remand for a new trial with a twelve-person jury, as required by the Sixth and Fourteenth Amendments to the United States Constitution.

MICHELLE R. MILLER, CLERK OF THE CIRCUIT COURT - SAINT LUCIE COUNTY
FILE # 5009922 OR BOOK 4791 PAGE 2878, Recorded 03/16/2022 09:56:46 AM

IN THE CIRCUIT/COUNTY COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR ST LUCIE COUNTY, FLORIDA

___ Modified
___ Resentence
___ Amended
___ Corrected
___ Mitigated
___ Community Control Violator
___ Probation Violator

Case Number: 562017CF001914AXXXXX

STATE OF FLORIDA
- vs -
WISBEN SANON
Defendant

X **Sexual Predator**
___ Sex Offender
___ Minor Victim
___ Sentenced in Absentia

JUDGMENT

The Defendant, WISBEN SANON being personally before this Court represented by Attorney CHARLES G WHITE, the Attorney of record, and the State represented by ANASTASIA MARIE NORMAN, and having:

X **been tried and found guilty by Jury of the following crime(s).**
___ entered a plea of guilty to the following crime(s).
___ entered a plea of nolo contendere to the following crime(s)
___ Admitted Violation of Probation
___ Found Guilty of Violation of Probation
___ Admitted a Violation of Community Control
___ Found Guilty of Violation of Community Control

Count	Crime	Offense Statute Number(s)	Level / Degree	OBTS Number
2	SEXUAL BATTERY ON A CHILD - FAMILIAL OR CUSTODIAL AUTHORITY	794.011(8B)	F-1	5601230357
3	LEWD OR LASCIVIOUS MOLESTATION- OFFENDER OVER 18, VICTIM 12 TO 16	800.04(5C2)	F-2	5601230985
7	SEXUAL BATTERY ON A CHILD - FAMILIAL OR CUSTODIAL AUTHORITY	794.011(8B)	F-1	5601230985

DB/DC/DOC
KGB

St. Lucie County File Date: 03/15/2022 03:48 PM

X **and no cause being shown why the defendant should not be adjudicated guilty, IT IS ORDERED THAT the defendant is hereby ADJUDICATED GUILTY of the above crime(s). : AS TO COUNT(s) 2, 3, 7**

___ and being a qualified offender pursuant to Florida Statute 943.325 - defendant shall be required to submit DNA samples as required by law

___ and good cause being shown; IT IS ORDERED THAT ADJUDICATION OF GUILT BE WITHHELD.

OR BOOK 4791 PAGE 2880

CASE NUMBER 2017CF001914 A

The Defendant in open Court was advised of the right to appeal from this Sentence by filing notice of appeal within 30 days from this date with the Clerk of this Court and the Defendant's right to the assistance of counsel in taking the appeal at the expense of the State on showing of indigency.

Circuit Judge LAWRENCE MIRMAN

FINGERPRINTS OF DEFENDANT

1. Right Thumb	2. Right Index	3. Right Middle	4. Right Ring	5. Right Little
				
6. Left Thumb	**7. Left Index**	**8. Left Middle**	**9. Left Ring**	**10. Left Little**
				

Fingerprints taken by: Mark Potts #1012 (Name) Deputy (Title)

I HEARBY CERTIFY that the above and forgoing fingerprints are the fingerprints of the Defendant WISBEN SANON and that they were placed thereon by said Defendant in my presence in open Court this date.

DONE AND ORDERED in Open Court at St. Lucie County, Florida, on Thursday, March 10, 2022

Nunc Pro Tunc To:

Circuit Judge LAWRENCE MIRMAN

St. Lucie County File Date: 03/15/2022 03:48 PM

OR BOOK 4791 PAGE 2881

___ Violation of Probation, Previously Adjudged Guilty
___ Violation of Community Control, Previously Adjudged Guilty
___ Resentenced
___ Modified
___ Amended
___ Mitigated
___ Corrected

Case Number 562017CF001914AXXXXX

OBTS Number 5601230357

Defendant WISBEN SANON

SENTENCE

(As to Count 2)

The Defendant, being personally before this Court, accompanied by the Defendant's Attorney of record PUBLIC DEFENDER UNKNOWN and having been adjudicated guilty, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the Defense should not be sentenced as provided by law, and no cause being shown

___ and the Court having on _____ deferred imposition of sentence until this date.

___ and the Court having previously entered a judgment in this case on _____ now resentence the Defendant.

___ and the Court having placed the Defendant on _____ and having subsequently revoked the Defendant's _____.

It Is The Sentence Of Court that:

___ The defendant pay a fine of _____ pursuant to section 775.083, Florida Statutes, plus _____ as the 5% surcharge required on 938.04, Florida Statutes.

_X_ The Defendant is hereby committed to the custody of the Department of Corrections.

___ The Defendant is hereby committed to the custody of the Sheriff of St. Lucie County Florida.

___ The Defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned (check one; unmarked sections are inapplicable.):

_X_ For a term of Natural Life.

___ For a term of Natural Life with a 25 year mandatory minimum

___ For a term of _____

___ The SENTENCE IS SUSPENDED for a period of _____ subject to conditions set forth in this Order.

If 'split' sentence complete the appropriate Paragraph.

___ Followed by a period of _____ on Community Control under the supervision of the Department of Corrections according to the terms and conditions of supervision as set forth in a separate order.

___ Followed by a period of _____ probation under the supervision of the Department of Corrections according to the terms and conditions of supervision as set forth in a separate order.

___ However, after serving a period of imprisonment in PRISON, the balance of the sentence will be suspended and the Defendant will be on Probation/Community Control under the supervision of the Department of Corrections according to the terms and conditions of Probation/Community Control as set forth in a separate order.

In the event the Defendant is ordered to serve additional, split sentences, all incarceration portions shall be satisfied before the Defendant begins service of the supervision terms.

St. Lucie County File Date: 03/15/2022 03:48 PM

562017CF001914AXXXXX

SPECIAL PROVISIONS
(As to Count 2)

By appropriate notation, the following provisions apply to the sentence imposed
Mandatory/ Minimum Provisions:

Firearm	___	It is further ordered that the _____ minimum imprisonment provisions of section 775.087, Florida Statutes, is hereby imposed for the sentence specified in this count.
Drug Trafficking	___	It is further ordered that the _____ minimum imprisonment provisions of section 893.135, Florida Statutes, is hereby imposed for the sentence specified in this court, and that the Defendant pay a fine of $___, pursuant to section 893.135, Florida Statutes, plus $___ as a 5% surcharge.
Law Enforcement	___	It is further ordered that the _____ minimum mandatory imprisonment provision of section 784.07, Florida Statutes, is hereby imposed for the sentence specified in this count.
Controlled Substance Within 1,000 Feet of School	___	It is further ordered that the 3 year minimum imprisonment provision of section 893.13(1)(c), Florida Statutes, is hereby imposed for the sentence in this count.
Habitual Felony Offender	___	The Defendant is adjudicated a habitual felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(a), Florida Statutes. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.
Habitual Violent Felony	___	The Defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of sections 775.084(4)(b), Florida Statutes. A minimum term of _____ year(s) must be served prior to release. The requisite findings of the Court are set forth in a separate order as stated on the record in open court.
Violent Career Criminal	___	The Defendant is adjudicated a violent career criminal and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(d), Florida Statutes, A minimum of _____ must be served prior to release. The requisite findings of the Court as set forth in a separate order or stated on the record in open court. (For crimes committed on or after May 24, 1997.)
Capital Offense	___	It is further that the Defendant shall serve no less than 25 years in accordance with provisions of section 775.082(1), Florida Statutes. (For first degree murder committed prior to May 25, 1994, and for any other capital felony committed prior to October 1, 1995.)
Prison Releasee	___	Defendant is adjudged a prison releasee reoffender in accordance with the provision of section 775.082(9), FL Statutes.
Sexual Predator	___	Defendant is adjudged a sexual predator in accordance with provision of section 775.21, Florida Statutes.
Other Provisions: Jail Credit	X	**It is further ordered that the Defendant shall be allowed a total of 1,702 DAY(S) as credit for time incarcerated before imposition of this sentence.**
Credit for Time Served in Resentencing After Violation of Probation or Community Control		It is further ordered that the Defendant be allowed _____ days time served between date of arrest as a violator following Release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served and unforfeited gain time previously awarded on case/count _____ (Offenses committed before October 1, 1989) It is further ordered that the Defendant be allowed _____ days time served between date or arrest as a violator following release from prison to the date of resentencing. The Department of Correction shall apply original jail time credit and shall compute and apply credit for time served on case/count (Offenses committed between October 1, 1989, and December 31, 1993) _ The Court deems the unforfeited gain time previously awarded on the above case/count forfeited under section 948.06(6), Florida Statutes. _ The Court allows unforfeited gain time previously awarded on the above case/count. (Gain time may be subject to forfeiture by the Department of Corrections under section 944.28(1)), Florida Statutes. It is further ordered that the Defendant be allowed _____ time served between date of arrest as a violator following release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served only pursuant to section 921.0017, Florida Statutes, on case/ count (Offenses committed on or after January 1, 1994)
Consecutive/ Concurrent As To Other Counts	___	It is further ordered that the sentence imposed for this count shall run _____ with the sentence set forth in count _____ of this case.

___ Violation of Probation, Previously Adjudged Guilty
___ Violation of Community Control, Previously Adjudged Guilty
___ Resentenced
___ Modified
___ Amended
___ Mitigated
___ Corrected

Case Number 562017CF001914AXXXXX

OBTS Number 5601230985

Defendant WISBEN SANON

SENTENCE

(As to Count 3)

The Defendant, being personally before this Court, accompanied by the Defendant's Attorney of record PUBLIC DEFENDER UNKNOWN and having been adjudicated guilty, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the Defense should not be sentenced as provided by law, and no cause being shown

___ and the Court having on _____ deferred imposition of sentence until this date.

___ and the Court having previously entered a judgment in this case on _____ now resentence the Defendant.

___ and the Court having placed the Defendant on _____ and having subsequently revoked the Defendant's _____.

It Is The Sentence Of Court that:

___ The defendant pay a fine of _____ pursuant to section 775.083, Florida Statutes, plus _____ as the 5% surcharge required on 938.04, Florida Statutes.

_X_ The Defendant is hereby committed to the custody of the Department of Corrections.

___ The Defendant is hereby committed to the custody of the Sheriff of St. Lucie County Florida.

___ The Defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned (check one; unmarked sections are inapplicable.):

___ For a term of Natural Life.

___ For a term of Natural Life with a 25 year mandatory minimum

_X_ For a term of 15.00 YEAR(S)

___ The SENTENCE IS SUSPENDED for a period of _____ subject to conditions set forth in this Order.

If 'split' sentence complete the appropriate Paragraph.

___ Followed by a period of _____ on Community Control under the supervision of the Department of Corrections according to the terms and conditions of supervision as set forth in a separate order.

___ Followed by a period of _____ probation under the supervision of the Department of Corrections according to the terms and conditions of supervision as set forth in a separate order.

___ However, after serving a period of imprisonment in PRISON, the balance of the sentence will be suspended and the Defendant will be on Probation/Community Control under the supervision of the Department of Corrections according to the terms and conditions of Probation/Community Control as set forth in a separate order.

In the event the Defendant is ordered to serve additional, split sentences, all incarceration portions shall be satisfied before the Defendant begins service of the supervision terms.

562017CF001914AXXXXX

SPECIAL PROVISIONS
(As to Count 3)

By appropriate notation, the following provisions apply to the sentence imposed
Mandatory/ Minimum Provisions:

Firearm	___	It is further ordered that the _____ minimum imprisonment provisions of section 775.087, Florida Statutes, is hereby imposed for the sentence specified in this count.
Drug Trafficking	___	It is further ordered that the _____ minimum imprisonment provisions of section 893.135, Florida Statutes, is hereby imposed for the sentence specified in this court, and that the Defendant pay a fine of $___, pursuant to section 893.135, Florida Statutes, plus $___ as a 5% surcharge.
Law Enforcement	___	It is further ordered that the _____ minimum mandatory imprisonment provision of section 784.07, Florida Statutes, is hereby imposed for the sentence specified in this count.
Controlled Substance Within 1,000 Feet of School	___	It is further ordered that the 3 year minimum imprisonment provision of section 893.13(1)(c), Florida Statutes, is hereby imposed for the sentence in this count.
Habitual Felony Offender	___	The Defendant is adjudicated a habitual felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(a), Florida Statutes. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.
Habitual Violent Felony	___	The Defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of sections 775.084(4)(b), Florida Statutes. A minimum term of _____ year(s) must be served prior to release. The requisite findings of the Court are set forth in a separate order as stated on the record in open court.
Violent Career Criminal	___	The Defendant is adjudicated a violent career criminal and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(d), Florida Statutes, A minimum of _____ must be served prior to release. The requisite findings of the Court as set forth in a separate order or stated on the record in open court. (For crimes committed on or after May 24, 1997.)
Capital Offense	___	It is further that the Defendant shall serve no less than 25 years in accordance with provisions of section 775.082(1), Florida Statutes. (For first degree murder committed prior to May 25, 1994, and for any other capital felony committed prior to October 1, 1995.)
Prison Releasee	___	Defendant is adjudged a prison releasee reoffender in accordance with the provision of section 775.082(9), FL Statutes.
Sexual Predator	___	Defendant is adjudged a sexual predator in accordance with provision of section 775.21, Florida Statutes.
Other Provisions: Jail Credit	X	**It is further ordered that the Defendant shall be allowed a total of 0 dsays as credit for time incarcerated before imposition of this sentence.**
Credit for Time Served in Resentencing After Violation of Probation or Community Control		It is further ordered that the Defendant be allowed _____ days time served between date of arrest as a violator following Release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served and unforfeited gain time previously awarded on case/count _____ (Offenses committed before October 1, 1989)
		It is further ordered that the Defendant be allowed _____ days time served between date or arrest as a violator following release from prison to the date of resentencing. The Department of Correction shall apply original jail time credit and shall compute and apply credit for time served on case/count (Offenses committed between October 1, 1989, and December 31, 1993)
		_ The Court deems the unforfeited gain time previously awarded on the above case/count forfeited under section 948.06(6), Florida Statutes.
		_ The Court allows unforfeited gain time previously awarded on the above case/count. (Gain time may be subject to forfeiture by the Department of Corrections under section 944.28(1)), Florida Statutes.
		It is further ordered that the Defendant be allowed _____ time served between date of arrest as a violator following release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served only pursuant to section 921.0017, Florida Statutes, on case/ count (Offenses committed on or after January 1, 1994)
Consecutive/ Concurrent As To Other Counts	X	**It is further ordered that the sentence imposed for this count shall run CONSECUTIVE with the sentence set forth in count 2 of this case.**

___ Violation of Probation, Previously Adjudged Guilty
___ Violation of Community Control, Previously Adjudged Guilty
___ Resentenced
___ Modified
___ Amended
___ Mitigated
___ Corrected

Case Number 562017CF001914AXXXXX

OBTS Number 5601230985

Defendant WISBEN SANON

SENTENCE

(As to Count 7)

The Defendant, being personally before this Court, accompanied by the Defendant's Attorney of record PUBLIC DEFENDER UNKNOWN and having been adjudicated guilty, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the Defense should not be sentenced as provided by law, and no cause being shown

___ and the Court having on _____ deferred imposition of sentence until this date.

___ and the Court having previously entered a judgment in this case on _____ now resentence the Defendant.

___ and the Court having placed the Defendant on _____ and having subsequently revoked the Defendant's _____.

It Is The Sentence Of Court that:

___ The defendant pay a fine of _____ pursuant to section 775.083, Florida Statutes, plus _____ as the 5% surcharge required on 938.04, Florida Statutes.

X The Defendant is hereby committed to the custody of the Department of Corrections.

___ The Defendant is hereby committed to the custody of the Sheriff of St. Lucie County Florida.

___ The Defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned (check one; unmarked sections are inapplicable.):

X For a term of Natural Life.

___ For a term of Natural Life with a 25 year mandatory minimum

___ For a term of _____

___ The SENTENCE IS SUSPENDED for a period of _____ subject to conditions set forth in this Order.

If 'split' sentence complete the appropriate Paragraph.

___ Followed by a period of _____ on Community Control under the supervision of the Department of Corrections according to the terms and conditions of supervision as set forth in a separate order.

___ Followed by a period of _____ probation under the supervision of the Department of Corrections according to the terms and conditions of supervision as set forth in a separate order.

___ However, after serving a period of imprisonment in PRISON, the balance of the sentence will be suspended and the Defendant will be on Probation/Community Control under the supervision of the Department of Corrections according to the terms and conditions of Probation/Community Control as set forth in a separate order.

In the event the Defendant is ordered to serve additional, split sentences, all incarceration portions shall be satisfied before the Defendant begins service of the supervision terms.

562017CF001914AXXXXX

SPECIAL PROVISIONS
(As to Count 7)

By appropriate notation, the following provisions apply to the sentence imposed
Mandatory/ Minimum Provisions:

Firearm	___	It is further ordered that the _____ minimum imprisonment provisions of section 775.087, Florida Statutes, is hereby imposed for the sentence specified in this count.
Drug Trafficking	___	It is further ordered that the _____ minimum imprisonment provisions of section 893.135, Florida Statutes, is hereby imposed for the sentence specified in this court, and that the Defendant pay a fine of $___, pursuant to section 893.135, Florida Statutes, plus $___ as a 5% surcharge.
Law Enforcement	___	It is further ordered that the _____ minimum mandatory imprisonment provision of section 784.07, Florida Statutes, is hereby imposed for the sentence specified in this count.
Controlled Substance Within 1,000 Feet of School	___	It is further ordered that the 3 year minimum imprisonment provision of section 893.13(1)(c), Florida Statutes, is hereby imposed for the sentence in this count.
Habitual Felony Offender	___	The Defendant is adjudicated a habitual felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(a), Florida Statutes. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.
Habitual Violent Felony	___	The Defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of sections 775.084(4)(b), Florida Statutes. A minimum term of _____ year(s) must be served prior to release. The requisite findings of the Court are set forth in a separate order as stated on the record in open court.
Violent Career Criminal	___	The Defendant is adjudicated a violent career criminal and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(d), Florida Statutes, A minimum of _____ must be served prior to release. The requisite findings of the Court as set forth in a separate order or stated on the record in open court. (For crimes committed on or after May 24, 1997.)
Capital Offense	___	It is further that the Defendant shall serve no less than 25 years in accordance with provisions of section 775.082(1), Florida Statutes. (For first degree murder committed prior to May 25, 1994, and for any other capital felony committed prior to October 1, 1995.)
Prison Releasee	___	Defendant is adjudged a prison releasee reoffender in accordance with the provision of section 775.082(9), FL Statutes.
Sexual Predator	___	Defendant is adjudged a sexual predator in accordance with provision of section 775.21, Florida Statutes.
Other Provisions: Jail Credit	X	**It is further ordered that the Defendant shall be allowed a total of 0 days as credit for time incarcerated before imposition of this sentence.**
Credit for Time Served in Resentencing After Violation of Probation or Community Control		It is further ordered that the Defendant be allowed _____ days time served between date of arrest as a violator following Release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served and unforfeited gain time previously awarded on case/count _____ (Offenses committed before October 1, 1989)
		It is further ordered that the Defendant be allowed _____ days time served between date or arrest as a violator following release from prison to the date of resentencing. The Department of Correction shall apply original jail time credit and shall compute and apply credit for time served on case/count (Offenses committed between October 1, 1989, and December 31, 1993)
		_ The Court deems the unforfeited gain time previously awarded on the above case/count forfeited under section 948.06(6), Florida Statutes.
		_ The Court allows unforfeited gain time previously awarded on the above case/count. (Gain time may be subject to forfeiture by the Department of Corrections under section 944.28(1)), Florida Statutes.
		It is further ordered that the Defendant be allowed _____ time served between date of arrest as a violator following release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served only pursuant to section 921.0017, Florida Statutes, on case/ count . (Offenses committed on or after January 1, 1994)
Consecutive/ Concurrent	X	**It is further ordered that the sentence imposed for this count shall run CONSECUTIVE with the sentence set forth in count 2 of this case.**
As To Other Counts		

OR BOOK 4791 PAGE 2887

____ Violation of Probation, Previously Adjudged Guilty
____ Violation of Community Control, Previously Adjudged Guilty
____ Resentenced
____ Modified
____ Amended
____ Mitigated
____ Corrected

Case Number: 562017CF001914AXXXXX

Defendant: WISBEN SANON

Other provisions, continued:

Consecutive/Concurrent To Other Convictions

It is further ordered that the composite term of all sentences imposed for the counts specified in this order will run
(check one) [ ] Consecutive To [ ] Concurrent To

Concurrent with the following:

(check one)

[ ] any active sentence being served.
[ ] specific sentences: _____

In the event the above sentence is to the Department of Corrections, the Sheriff of St. Lucie County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections and the facility designated by the department together with a copy of this Judgment and Sentence and any other documents specified by Florida Statute.

The Defendant in open court was advised of the right to appeal from this Sentence by filing notice of appeal within 30 days from this date with the Clerk of this Court and the Defendant's right to the assistance of counsel in taking the appeal at the expense of the state upon a showing of indigency.

In imposing the above sentence, the Court further recommends / orders

DONE AND ORDERED in Open Court at St. Lucie County, Florida, on March, 10 2022.

Nunc Pro Tunc to: _____

Circuit/County Judge LAWRENCE MIRMAN

Supreme Court of Florida

TUESDAY, JUNE 13, 2023

Wisben Sanon,
Petitioner(s)
v.
State of Florida,
Respondent(s)

SC2023-0559
Lower Tribunal No(s).:
4D22-0713;
562017CF001914AXXXXX

Petitioner shall show cause on or before June 28, 2023, why in light of this Court's decision to deny review in *Guzman v. State*, No. SC2022-1597, this Court should not decline to accept jurisdiction in this case. Respondent may file a reply on or before July 10, 2023.

A True Copy
Test:

SC2023-0559 6/13/2023

John A. Tomasino
Clerk, Supreme Court

SC2023-0559 6/13/2023

DL

Served:

PAUL EDWARD PETILLO
ANESHA WORTHY

Filing # 176294401 E-Filed 06/28/2023 09:39:22 AM

IN THE SUPREME COURT OF FLORIDA

WISBEN SANON,
Petitioner, CASE NO.: SC23-0559

vs.

STATE OF FLORIDA,

Respondent
_____/

PETITIONER'S RESPONSE TO SHOW CAUSE ORDER

Petitioner responds to this Court's order to show cause as follows:

Petitioner sought review of the Fourth District's decision pursuant to *Jollie v. State*, 405 So. 2d 418 (Fla. 1981), and its citation to *Guzman v. State*, SC22-1597, which was pending review in this Court. He also sought review on the ground that the decision "expressly construes a provision of the state or federal constitution." Art. V, § 3(b)(3), Fla. Const. Because this Court denied review of *Guzman*, this Court no longer has jurisdiction pursuant to *Jollie*. However, this Court could still exercise its discretion to accept review on Petitioner's other asserted basis, and notwithstanding that this Court denied review of *Guzman*.

Respectfully submitted,

CAREY HAUGHWOUT
Public Defender, 15th Judicial Circuit

/s/ PAUL EDWARD PETILLO
Paul Edward Petillo
Assistant Public Defender
15th Judicial Circuit of Florida
Criminal Justice Building
421 Third Street
West Palm Beach, Florida 33401
(561) 355-7600
Florida Bar No.: 508438

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this response has been furnished to Anesha Worthy, Assistant Attorney General, 1515 N. Flagler Dr., Suite 900, West Palm Beach, FL 33401 by e-service at CrimAppWPB@MyFloridaLegal.com; and electronically filed with this court on this 28th day of June, 2023.

/s/ Paul E. Petillo
Of Counsel

IN THE SUPREME COURT OF THE STATE OF FLORIDA

WISBEN SANON,	)	
	)	
Petitioner,	)	Case No.: SC23-0559
	)	
v.	)	Lower Tribunal Case Nos.:
	)	4D22-0713
STATE OF FLORIDA,	)	2017CF001914A
	)	
Respondent.	)	
	)	

RESPONDENT'S REPLY TO PETITIONER'S RESPONSE TO ORDER TO SHOW CAUSE

Petitioner sought review of the Fourth District's decision in his case alleging that this Court had conflict jurisdiction pursuant to Jollie v. State, 405 So. 2d 418 (Fla. 1981), because it issued an opinion affirming the six-person jury in his case with a citation to the "pending" case of Guzman v. State, 350 So. 3d 72 (Fla. 4th DCA 2022). He also alleged that this Court had jurisdiction to review the Fourth District's decision pursuant to article V, section 3(b)(3) of the Florida Constitution because it expressly construed a provision of the state or federal constitution.

This Court denied review of Guzman and issued an order requiring Petitioner to show cause why this Court should not decline to accept jurisdiction in this case in light of its decision to deny review in Guzman.

Petitioner filed a response conceding that this Court no longer has jurisdiction to review the decision in his case pursuant to Jollie.

However, Petitioner argues that jurisdiction still exists because the Fourth District's decision expressly construed a provision of the state or federal constitution. The face of the opinion conclusively refutes this claim though.

In the decision, the Fourth District affirmed Petitioner's challenge to the six-person jury without discussing, interpreting, or construing the Sixth Amendment and without any pronouncements on the numerical composition of a jury. In fact, the Fourth District expressly stated that it was affirming the issue "without discussion." Although the Fourth District cited Guzman, which rejected a constitutional challenge to six-person juries, there is nothing within the four corners of the opinion before this Court that did the same. As such, there is no express constitutional construction within the opinion and this precludes jurisdiction pursuant to this provision of article V, section 3(b)(3), Florida Constitution. Therefore, in light of this Court's decision to deny review in Guzman, this Court should decline to accept jurisdiction in this case because there is no other jurisdictional basis for review.

Respectfully submitted,

ASHLEY MOODY
Attorney General
Tallahassee, Florida

CELIA TERENZIO
Senior Assistant Attorney General
Bureau Chief, West Palm Beach
Florida Bar No. 656879

/s/ *Anesha Worthy*
ANESHA WORTHY
Assistant Attorney General
Florida Bar No. 60113
1515 North Flagler Drive
Suite 900
West Palm Beach, FL 33401-3432
Telephone: (561) 837-5016
Facsimile: (561) 837-5108
anesha.worthy@myfloridalegal.com
crimappwpb@myfloridalegal.com

Counsel for Respondent

CERTIFICATE OF SERVICE

I certify that the foregoing document has been electronically filed with this Court and furnished to Paul Edward Petillo, Assistant Public Defender, Office of the Public Defender, 15th Judicial Circuit, 421 Third Street, West Palm Beach, FL 33401, via email at appeals@pd15.state.fl.us on this 28th day of June, 2023.

/s/ *Anesha Worthy*
ANESHA WORTHY
Assistant Attorney General

Supreme Court of Florida

TUESDAY, NOVEMBER 14, 2023

Wisben Sanon,
Petitioner(s)
v.

State of Florida,
Respondent(s)

SC2023-0559
Lower Tribunal No(s).:
4D22-0713;
562017CF001914AXXXXX

Upon review of the response to this Court's order to show cause dated June 13, 2023, and the reply, the Court has determined that it should decline to accept jurisdiction in this case. *See Guzman v. State*, No. SC2022-1597 (Fla. order entered June 6, 2023). The petition for discretionary review is, therefore, denied.

No motion for rehearing will be entertained by the Court. *See* Fla. R. App. P. 9.330(d)(2).

MUÑIZ, C.J., and CANADY, LABARGA, FRANCIS, and SASSO, JJ., concur.

A True Copy
Test:

SC2023-0559 11/14/2023
John A. Tomasino
Clerk, Supreme Court
SC2023-0559 11/14/2023

DL

Served:

4DCA CLERK
ST. LUCIE CLERK
HON. LAWRENCE MICHAEL MIRMAN
PAUL EDWARD PETILLO
ANESHA WORTHY