

No. 25 6363

RECEIVED
EVERGLADES C.I.

APR 23 2026

STAFF INITIAL



**IN THE
SUPREME COURT OF THE UNITED STATES**

ARTURO AMARAN- PETITIONER

vs.

**STATE OF FLORIDA, FLA. DOC – RESPONDENT(S)
ON PETITION FOR A WRIT OF CERTIORARI TO
SUPREME COURT OF FLORIDA
MOTION FOR REHEARING**

ARTURO AMARAN

(Your Name)

1599 SW 187th Avenue

Miami, Florida, 33194 – 2801

305-228-2000

(Phone Number) Warden

COMES NOW, the Petitioner, Arturo Amaran, in accordance with United States Supreme Court Rule 44 and respectfully moves this Honorable Court for Rehearing on the denial of Petition for Writ of Certiorari and for good grounds will show:

1. As a preliminary matter, this Motion is presented in good faith and not for purpose of delay.
2. On or about September 9, 2025 Petitioner filed a Petition for Writ of Certiorari in this Court raising two questions for this Court's consideration.

A. Given the United States Supreme Court's now long standing and cler 5th Amendment jurisprudence, do Florida Courts have authority to expand, or otherwise invent, an exception to the rule announced in *Apprendi*?

B. Consistent with the strict and secure separation of powers, do Florida Courts have the authority to add words to statutes that were not placed there by the Legislature? Can Florida Courts modify a statute express terms?

3. This Court denied this Petition for Writ of Certiorari on February 23, 2026. This denial is a direct conflict in the same question of law with the decision made by this Court in *Calvin Cogdill v. United States*, and *Erlinger v. United States*. See Appendix A-B attached to this Petition for Rehearing

4. Petitioner respectfully contends that the denial of relief warrants rehearing when considering the constitutional and statutory provisions involved, precisely,

Petitioner's Fifth, Sixth and Fourteenth Amendment rights to due process, speedy trial, fair trial, effective assistance of counsel, to be afforded conflict free counsel and to be provided an evidentiary hearing.

BASIS FOR REHEARING
PETITIONER SUMMARY OF THE ARGUMENT
AND FACTS OF THE CASE

The United States Supreme Court's recent decision in *Erlinger v. United States*, 144 S. Ct. 1840 (2024), confirms that Section 775.082 ("The PRR Statute"), is unconstitutional on its face. It has been unconstitutional on its face since this Nation's founding, or at the very least, since the Supreme Court rendered its decision in *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and *Ring v. Arizona*, 536 U.S. 584 (2002).

The 775.082 Statute permits a Judge rather than a jury to make a factual determination increasing a Appellant's sentencing range. The 775.082 Statue requires that those findings be made by a preponderance of the evidence instead of beyond a reasonable doubt. Therefore, the Statute is unconstitutional on its face because there are not set of circumstances under which it complies with the requirements of the Fifth and Sixth Amendments to the United States Constitution, or with Article 1, Section 22 of the Florida Constitution.

THE SIXTH AMENDMENT AND APPENDI

The Sixth Amendment to the United States Constitution provides that “[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury[.]” Amend. VI. U.S. Constitution.

STATE OF FLORIDA

A. SECTION 775.082(9) IS UNCONSTITUTIONAL ON ITS FACE

The PRR Statute is facially unconstitutional pursuant to the Fifth and Sixth Amendments to the United States Constitution, and pursuant to Article I, Section 22 of the Florida Constitution. The plain language of the statute cannot be reconciled with numerous decisions of the United States Supreme Court interpreting those constitutional provisions.

Pursuant to § 775.082(9) an individual is classified as a prison releasee reoffender if he commits or attempts to commit one of the listed offenses within 3 years of being released from a sentence of incarceration imposed for a felony conviction.

Section 775.082(9)(a)3, provides the following:

Upon proof from the State Attorney that establishes by a preponderance of the evidence that a defendant is a prison releasee reoffender as defined in this section, such defendant is not eligible for sentencing under the sentencing guidelines and must be sentenced as follows:

a. For a felony punishable by life, by a term of imprisonment for life;

- b. For a felony of the first degree, by a term of imprisonment of 30 years;
- c. For a felony of the second degree, by a term of imprisonment of 15 years; and
- d. For a felony of the third degree, by a term of imprisonment of 5 years.

A person sentenced under paragraph (a) shall be released only by expiration of sentence and shall not be eligible for parole, controlled release, or any form of early release. Any person sentenced under paragraph (a) must serve 100 percent of the Court-imposed sentence.

Fla. Stat. § 775.082(9) (emphasis added).

Thus, if the State proves by a preponderance of the evidence that a defendant qualifies as a prison releasee reoffender, a trial Court is required by § 775.082(9) to sentence the Defendant to the statutory maximum sentence for the offense of conviction and defendant must serve 100% of that sentence day by day. The defendant is released from prison for his sentence on that conviction. The relevant standard must also be beyond a reasonable doubt, not by a preponderance of the evidence. These facts were explicitly recognized in both the majority opinion (authored by Justice Gorsuch and joined by Chief Justice Roberts, and Justices Thomas, Sotomayor, Kagan, and Barrett), and in Justice Jackson's dissenting opinion.

Question: The majority held as follows:

Virtually any fact that increase(s) the prescribed range of penalties to which a criminal defendant is exposed must be resolved by a unanimous jury beyond a reasonable

doubt. Judges may not assume the jury's factfinding function for themselves, let alone purport to perform it using a mere preponderance-of-the-evidence standard.

Justice Jackson confirmed the effect of the majority opinion: "Today, the Court concludes that *Apprendi v. New Jersey*, 530 U.S. 466, 120 S.Ct. 2348, 147 L. Ed. 2d 435 (2000), must be read to suggest otherwise - i.e., that under *Apprendi*, for sentencing, purposes, facts that relate to a Defendant's prior crimes cannot be determined by the Judges, but must be found by the juries." *Id.* (Jackson, J. dissenting).

Since *Erlinger*, establishes the PRR statute has been unconstitutional since this Nation was founded, retroactive application to all defendants sentenced under the PRR Statute is required. At the very least, the PRR Statute has been unconstitutional since the Supreme Court rendered its decisions in *Apprendi* and *Ring*. Therefore, all defendants whose convictions and sentences became final after *Apprendi* was decided are entitled to retroactive application of *Erlinger* and this Court's decision to find a PRR Statute unconstitutional, because the terms of the sentence is standing over the statutory maximum of the statutes and creating long term sentences in violation of the United States Constitution 5th, 6th and 14th Amendments.

REASONS FOR GRANTING THE PETITION
AND THIS MOTION FOR REHEARING

Moreover, the Florida District Court decisions are wrongly decided. To date, the unanimous District Court decisions on this issue adopt two overreaching themes to justify their expansion of *Apprendi*'s only exception. First, three of Florida District Courts (the First, Second and Fourth) reason that the date of release is "related" to the fact of a prior conviction. The Second District's *Calloway* decision,¹ however, is the only one directly acknowledging that the date of release "is not the same as the bare fact of a prior conviction." *Calloway*, 914 So. 2d at 14.

But *Erlinger* now makes plain that *Apprendi* signaled years ago the exception for the fact of a prior conviction is questionable to begin with, and as a result, it must be applied narrowly. In short, the Sixth Amendment will not tolerate an expansion of the exception – even if the bench might view it as logical or slight.

Second, the other three District Courts (The Third, Fifth and Sixth) lean heavily on the purported "ministerial nature" of the finding. Presumably, these Courts conclude that proving the date of release is so "straightforward that sending it to a jury would be pointlessly ineffective." *Erlinger*, 602 U.S. at 839 (citation omitted).

This Court should question whether "ministerial" is an accurate label. The

¹ *Calloway v. State*, 914 So. 2d 12 (Fla. 2d DCA 2005).

Petitioner, in the case at bar, avers that the “ministerial” label does not seem fit because the date of release finding involves the evaluation of evidence. See e.g. *Manalapan v. Rechler*, 674 So. 2d 789, 790 (Fla. 4th DCA 1996)(explaining that, in the context of Mandamus, a duty or act is defined as ministerial when there is no room for the exercise of discretion and the performance being required is directed by law). Specifically, to establish that the PRR Statute applies, the State must offer proof, which generally includes records from the Florida Department of Corrections. Notably, *Simmons*, *Maye* and *Ryland* ²do not establish these records are somehow beyond challenge. *Erlinger* itself recognized that even judicial records, specifically Shepard documents, can be prone to errors. *Erlinger* 602 U.S. at 839 (citation omitted). *Blakely* and *Erlinger* leave no room for an efficiency exception to the Sixth Amendment. To be sure, “[T]he jury trial may have ‘never been efficient,’” *Erlinger*, 602 U.S. at 849 (quoting *Apprendi*, 530 U.S. at 498) (Scala, J., concurring), but it is required by the Sixth Amendment even when the evidence might be “overwhelming.” *Id.* at 847. Thus, regardless of the label *Simmons*, *Maye*, and *Ryland* give the finding, the State must put its proof to a jury, not a Judge. Therefore, given the United States Supreme Court’s Sixth Amendment jurisprudence, the Court in Florida under no authority to expand, or otherwise invent, an exception to the rule announced in *Apprendi*.

² *Simmons v. State*, 332 So. 3d 1129 (Fla. 5th DCA 2022); *Maye v. State*, 368 So. 3d 531 (Fla. 6th DCA 2023); *Ryland v. State*, 360 So. 3d 784, 786 (Fla. 3rd DCA 2023).

In furtherance, this Honorable Court should reverse Petitioner's sentence because this Court should be bound by its own interpretation of *Apprendi*, as set forth in *Erlinger*, based on the principles of the United States Constitution and Due Process Clause.

FLORIDA'S CONSTITUTION CONTAINS EXPRESS SEPARATION OF POWERS PROVISION

Article II, Section 3 states as follows:

The powers of the State government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.

Art. III, § 3, Fla. Constitution.

The separation of powers is no technicality. As Justice Scalia observed, “[W]ithout a secure structure of separated powers, our Bill of Rights would be worthless, as are the bill of rights of many nations of the world that have adopted, or even improved upon, the mere words of ours.” *Morrison v. Olson*, 487 U.S. 654, 697, 108 S. Ct. 2597, 101 L. Ed. 2d 569 (1988)(Scalia, J., dissenting). Consistent with this strict separation of powers, Florida Courts are without authority “to add words to statutes that were not placed there by the Legislature.” *Hayes v. State*, 750 So. 2d 1, 4 (Fla. 1999). Nor can it modify a statute's express terms.

CONCLUSION

WHEREFORE, Petitioner prays this Honorable Court will find good cause has been shown to grant Rehearing and grant all appropriate relief to include granting the Petition for Writ of Certiorari based on the merits of this Court prior decision on *Erlinger* and *Calvin Cogdill* in the same question of law and constitutional principles.

Respectfully submitted,



Arturo Amaran # M35094

CERTIFICATE OF COMPLIANCE

I hereby certify that the grounds raised herein are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously raised.



Arturo Amaran # M35094