No. 25-_____

In the

Supreme Court of the United States

Robert Armendaris,
Petitioner,

v.

State of Arizona,
Respondent.

Petition for Writ of Certiorari
To the Arizona Court of Appeals

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ISSUE

This Court long interpreted the Sixth Amendment consistent with how our founders understood it. One component of that right was that criminal defendants "should be tried by a jury composed of not less than twelve persons." *Thompson v. Utah*, 170 U.S. 343, 350 (1898). Of this conclusion, this Court reasoned, "there can be no doubt." *Maxwell v. Dow*, 176 U.S. 581, 586 (1900).

In *Williams v. Florida*, the Court shifted to a functionalist approach. *Williams v. Florida*, 399 U.S. 78, 99-100 (1970). Parting from decades of jurisprudence, the majority concluded that 12 people were not necessary to the function of the Sixth Amendment. *Id.* at 100-01. Six jurors were enough. *Id.*

Two years later, this functionalist approach became the basis for a plurality decision discarding jury unanimity in *Apodaca v. Oregon*, 406 U.S. 404, 411 (1972).

But in the unanimity context, this Court rejected the functionalist approach just six years ago in *Ramos v. Louisiana*, 590 U.S. 83, 100 (2020). Rather, this Court was guided by how our founders understood the Sixth Amendment. *Id.* at 89-93.

The obvious tension between *Williams* and *Ramos* has led many to call for this Court to reconsider *Williams*—including Justice Gorsuch. *See Khorrami v. Arizona*, 598 U.S. __, 143 S. Ct. 22 (2022) (Gorsuch, J., dissenting from denial of certiorari); *Cunningham v. Florida*, 144 S. Ct. 1287 (2024) (Gorsuch, J., dissenting from denial of certiorari).

This Petition asks:

Does the Sixth Amendment guarantee the right to a 12-person jury?

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PETITION FOR WRIT OF CERTIORARI

Petitioner Robert Armendaris petitions this Court for a writ of certiorari to review the judgment of the Arizona Court of Appeals.

INTRODUCTION

At the time of our founding, the right to a jury had a well-understood meaning: 12 people.

And this Court faithfully interpreted the right to guarantee 12-person juries for years. *See, e.g., Thompson v. Utah*, 170 U.S. 343, 350 (1898); *Rasmussen v. United States*, 197 U.S. 516, 529 (1905); *Patton v. United States*, 281 U.S. 276, 292 (1930).

Until *Williams v. Florida*, 399 U.S. 78 (1970).

While earlier decisions had emphasized the original understanding of the Sixth Amendment, *Williams* took a novel approach: function. *Id.* at 99-100. Size didn't make the cut. *Id.* at 100-01. Assessing its view of the purpose of a jury, the *Williams* majority concluded that a 12-person jury wasn't necessary for the jury's function. *Id.* Two years later, unanimity didn't make the cut either. Applying the same functionality analysis, the plurality in *Apodaca v. Oregon* ruled that unanimity was not essential to the jury's function. *Apodaca v. Oregon*, 406 U.S. 404, 410-11 (1972).

The failings of *Williams* were seen quickly. Folks started studying the impact of jury size. *See Ballew v. Georgia*, 435 U.S. 223, 232-39 (1978). And jury size was

important. Larger juries did a better job deliberating and made better decisions. *Id.* at 232-34. Smaller juries created variances that favored the prosecution and excluded people with minority viewpoints. *Id.* at 236. Not only were minority viewpoints excluded, minority groups—including racial minorities—were more likely to be excluded. *Id.* at 236-37.

This Court stopped the bleeding in *Ballew v. Georgia* and ruled that a 5-person jury violated the Sixth Amendment. *Id.* at 239. But this Court also "readily admit[ted] that we do not pretend to discern a clear line between six members and five." *Id.*

Five years ago, this Court corrected course in the jury-unanimity context. In *Ramos v. Louisiana*, this Court found it problematic to replace "the ancient guarantee of a unanimous jury verdict" with the Court's "own functionalist assessment" of the Sixth Amendment. *Ramos v. Louisiana*, 590 U.S. 83, 100 (2020). Instead, the Sixth Amendment should be read consistent with what our founders understood. In *Ramos*, that meant unanimity.

Ramos rejected the functionalist approach used in *Apodaca*. Now, *Williams* cannot be reconciled with *Ramos*. This Court should grant certiorari and overrule *Williams*.

OPINIONS BELOW

The opinion of the Arizona Court of Appeals is reported at *State v. Armendaris*, 567 P.3d 755 (Ariz. App. 2025). It is attached at Appendix 1a.

JURISDICTION

This petition is timely, and this Court has jurisdiction under 28 U.S.C. § 1257(a). The Arizona Court of Appeals issued its opinion on March 13, 2025. Appendix 1a. Mr. Armendaris then petitioned for review with the Arizona Supreme Court. The Arizona Supreme Court denied review on October 6, 2025. Appendix 8a. This established a 90-day date of January 1, 2026. Because that is a holiday, the deadline rolls over to the next business day, January 2, 2026. *See* Supreme Court Rule 30(1).

CONSTITUTIONAL PROVISIONS INVOLVED

The Sixth Amendment provides, in pertinent part:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed ….

U.S. Const. Amend. 6.

The Fourteenth Amendment provides, in pertinent part:

> No state shall … deprive any person of life, liberty, or property, without due process of law ….

U.S. Const. Amend. 14, § 1.

STATEMENT

Robert Armendaris asked for a jury of 12 people. *State v. Armendaris*, 567 P.3d 755, ¶ 9 (Ariz. App. 2025) (Appendix 1a). He had been charged with luring a minor for sexual exploitation. *Id.* The minor in question was an undercover officer posing as a 16-year-old. *Id.* at ¶ 8.

Because of his charge, Mr. Armendaris faced serious consequences. If convicted, he faced up to 8.75 years in prison. *Id.* at ¶ 20; *see* Ariz. Rev. Stat. § 13-702(D). And upon conviction, he would have to register as a sex offender. *Armendaris*, 567 P.3d 755, ¶ 11; *see* Ariz. Rev. Stat. § 13-3821(A)(14).

But Mr. Armendaris didn't get a jury of 12 people; only eight people decided his case. *Armendaris*, 567 P.3d 755, ¶ 10.

Under Arizona law, Mr. Armendaris was only entitled to a jury of eight people. *Id.* at ¶ 20. The Arizona Constitution provides for the right to a jury. Ariz. Const. Art. 2, § 23. But a 12-person jury is only guaranteed "in criminal cases in which a sentence of death or imprisonment for thirty years or more is authorized by law …." *Id.* For all other cases, the Arizona Constitution requires a jury of "not less than six …." *Id.* Arizona statute sets the number at eight: "A jury for trial in any court of record of any other criminal case shall consist of eight persons …." Ariz. Rev. Stat. § 21-102(B).

This eight-person jury convicted Mr. Armendaris. *Armendaris*, 567 P.3d 755, ¶ 11. The trial court sentenced Mr. Armendaris to lifetime supervised probation and ordered Mr. Armendaris to register as a sex offender. *Id.*

On appeal, Mr. Armendaris argued he should have received a 12-person jury. *Id.* at ¶ 13.

The Arizona Court of Appeals recognized that the Sixth Amendment guarantees the right to an impartial jury and "applies to the states through the Fourteenth Amendment." *Id.* at ¶ 15.

But relying on *Williams v. Florida*, the court rejected Mr. Armendaris's argument. *Id.* at ¶¶ 15-19 (discussing *Williams v. Florida*, 399 U.S. 78 (1970)). "More than 50 years ago," the court observed, this Court "ruled the Sixth Amendment does not require a 12-person jury." *Id.* at ¶ 15. And two years later, the Arizona Constitution was amended to authorize juries of fewer than 12 people. *Id.* The lower court also observed that the Arizona Supreme Court had reviewed the issue and "concluded that Arizona's jury laws passed Sixth-Amendment muster under *Williams*." *Id.* at ¶ 16 (citing *State v. Soliz*, 219 P.3d 1045, ¶¶ 6-7 (2009)).

Mr. Armendaris argued that this Court's more recent decision in *Ramos v. Louisiana* changed how we should look at the Sixth Amendment. *See id.* at ¶¶ 17-18 (discussing *Ramos v. Louisiana*, 590 U.S. 83 (2020)). Rather than look at a functional approach, *Ramos* requires courts to look at what the Sixth Amendment "meant at the time of the Sixth Amendment's adoption." *Id.* at ¶ 18. And at the time of adoption, the Sixth Amendment was understood to require a 12-person jury. *Id.*

The lower court did not engage with this argument. *Id.* at ¶ 19.

Instead, the court concluded simply that it was bound by *Williams* and related Arizona authority. *Id.* at ¶ 19. "But even if the Arizona Supreme Court or

United States Supreme Court ultimately agrees with Armendaris' position, this court is bound by the holdings in *Williams* and *Soliz*." *Id.*

"*Williams* still holds today." *Id.*

And because *Williams* still holds, a jury of just eight people can decide cases in which a defendant faces nearly a decade in prison, lifetime probation, and sex offender registration. *Id.* at ¶ 20.

"Based on controlling precedent," the court ruled, "Armendaris has not established error." *Id.*

Mr. Armendaris petitioned for review with the Arizona Supreme Court. The Arizona Supreme Court denied review on October 3, 2025 (Appendix 8a).

Because "*Williams* still holds today," Mr. Armendaris files this Petition for Writ of Certiorari.

REASONS THIS PETITION SHOULD BE GRANTED

1. *Williams v. Florida* cannot be squared with *Ramos v. Louisiana*'s original-meaning framework.

Williams v. Florida upheld criminal convictions by juries smaller than 12 even though the Court acknowledged that, at the time of the founding, a criminal jury was universally understood to consist of 12 people. *Williams v. Florida*, 399 U.S. 78 (1970).

Under *Ramos v. Louisiana*, that acknowledgment should have ended the analysis. *Ramos v. Louisiana*, 590 U.S. 83 (2020).

It did not. And that's the problem.

A. At the founding, the right to an "impartial jury" included a jury of 12.

When the Sixth Amendment was adopted, the meaning of "impartial jury" was settled. In criminal cases, it referred to a jury composed of 12 people who were required to reach a unanimous verdict. That understanding was neither contested nor uncertain. It was part of the legal background against which the Sixth Amendment was drafted and ratified.

English common law fixed the criminal jury at 12. As Richard S. Arnold—former Chief Judge of the United States Court of Appeals for the Eighth Circuit—has noted, "In 1367, during the rule of Edward III (1327-1377), the requirement of a unanimous verdict of twelve was firmly established." Hon. Richard S. Arnold, *Trial by Jury: The Constitutional Right to a Jury of Twelve in Civil Trials*, 22 Hofstra L. Rev. 1, 8 (1993); *accord* Robert H. Miller, *Six of One is Not a Dozen of the Other: A*

reexamination of Williams v. Florida *and the size of state criminal juries*, 146 U. Pa. L. Rev. 621, 638-39 (1998). This aligns with Professor Thayer's assessment—reached in 1892—that the "requirement of twelve in the petty jury" became "the settled rule" by the end of the 14th century. James B. Thayer, *The Jury and Its Development*, 5 Harv. L. Rev. 295, 297 (1892). And Sir William Blackstone explained in 1795 that "the founders of the English law have with excellent forecast contrived … that the truth of every accusation … should afterwards be confirmed by the unanimous suffrage of twelve of his equals and neighbours, indifferently chosen, and superior to all suspicion." 4 Commentaries on the Laws of England 349 (1795).[1]

Colonial practice followed suit. "In fact, an examination of colonial legislation in the pre-Revolutionary and Revolutionary eras uncovers considerable evidence that the Framers simply understood 'jury' to mean a unanimous body of twelve." Miller, *Six of One is Not a Dozen of the Other*, 146 U. Penn. L. Rev. at 640. And by "1791 it was clear that the colonists believed a jury of fewer than twelve to be a concept both alien and ominous." Arnold, *Trial by Jury*, 22 Hofstra L. Rev. at 14. When the Sixth Amendment guaranteed the right to an "impartial jury," it incorporated that settled understanding.

Indeed, the common definition of a jury included reference to a group of 12. Samuel Johnson's 1785 dictionary defined jury as "a company of men, as twenty-four, or twelve, sworn to deliver a truth upon such evidence as shall be delivered

[1] Available at https://archive.org/details/bim_eighteenth-century_commentaries-on-the-laws_blackstone-william-sir_1793_4/page/349/mode/2up.

them touching the matter in question." Samuel Johnson, 1 A Dictionary of the English Language 1084 (1785).[2] Thomas Sheridan's dictionary, published five years earlier, provided a nearly identical definition: "a company of men, as twenty-four or twelve, sworn to deliver a truth upon such evidence as shall be delivered them touching the matter in question." Thomas Sheridan, A General Dictionary of the English Language 542 (1780).[3]

And for more than a century, this Court recognized that reality.

In *Thompson v. Utah*, decided in 1898, this Court understood that "the word 'jury' and the words 'trial by jury' were placed in the constitution of the United States with reference to the meaning affixed to them in the law as it was in this country and in England at the time of the adoption of that instrument …." *Thompson v. Utah*, 170 U.S. 343, 350 (1898). That meant that the defendant "should be tried by a jury composed of not less than twelve persons." *Id.*

One year later, in *Cap. Traction Co. v. Hof*, this Court affirmed "that the word 'jury' … means a tribunal of twelve men …." *Cap. Traction Co. v. Hof*, 174 U.S. 1, 15 (1899).

In 1900, this Court held that "a jury composed, as at common, of twelve jurors was intended by the Sixth Amendment to the Federal Constitution" in *Maxwell v. Dow*, 176 U.S. 581, 586 (1900). Of this conclusion, "there can be no doubt." *Id.*

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[2] Available at https://archive.org/details/dictionaryofengl01johnuoft/page/n1083/mode/2up.
[3] Available at https://archive.org/details/generaldictionar00sher/page/542/mode/2up.

Five years later, this Court concluded in *Rasmussen v. United States* that the "constitutional requirement that 'the trial of all crimes … shall be by jury,' means, as this court has adjudged, a trial by the historical, common-law jury of twelve persons …." *Rasmussen v. United States,* 197 U.S. 516, 529 (1905).

And then in 1930, in *Patton v. United States*, this Court held: "A constitutional jury means 12 men as though that number had been specifically named; and it follows that, when reduced to eleven, it ceases to be such a jury quite as effectively as though the number had been reduced to a single person." *Patton v. United States,* 281 U.S. 276, 292 (1930).

Under the common law, a jury was composed of 12 people. In the colonies, a jury was composed of 12 people. Our founders understood the word *jury* to refer to a group of 12 people. And this Court consistently interpreted the word jury to mean a group of 12 people—until *Williams*.

B. *Williams* acknowledged the original meaning—and declined to enforce it.

Williams v. Florida did not dispute the historical understanding of the jury trial right. *See Williams v. Florida*, 399 U.S. 78, 86-91. To the contrary, the majority acknowledged that criminal juries at common law consisted of 12 people and that this number had become fixed during the 14th century. *Id.* at 88-89.

Instead, the *Williams* majority was bothered that our history "affords little insight into the considerations that gradually led the size of that body to be generally fixed at 12." *Id.* at 87. And this Court demeaned possible explanations as

"rest[ing] on little more than mystical or superstitious insights into the significance of '12.'" *Id.* at 88.

The majority thus characterized the requirement that a jury be composed of 12 people as "a historical accident, unrelated to the great purposes which gave rise to the jury in the first place." *Id.* at 89-90. And the Court found trouble assessing our Framers' intent—despite the several cases cited above evidencing that intent. *Id.* at 92-99.

The *Williams* majority then broke from Sixth Amendment precedent. *Id.* at 99-100.

Before *Williams*, this Court interpreted the right to a jury consistent with the term's original meaning. In *Thompson v. Utah*, this Court had ruled that "jury" and "trial by jury" had to be understood by "the meaning affixed to them in the law as it was in this country and in England at the time of the adoption of" the Constitution. *Thompson v. Utah*, 170 U.S. 343, 350 (1898).

But the *Williams* majority abandoned this standard and instead looked to function. *Id.* at 99-100. "The relevant inquiry, as we see it, must be the function that the particular feature performs and its relation to the purposes of the jury trial." *Id.* And the majority did not believe 12 people were necessary for a jury to perform its function. *Id.* at 100-01. In his *Williams* dissent, Justice Marshall would have adhered to *Thompson*. *See Williams*, 399 U.S. at 117 (Marshall, J., dissenting). As he saw it, the majority had "not made out a convincing case that the Sixth Amendment should be read differently than it was in *Thompson* even if the matter

were now before us de novo—much less that an unbroken line of precedent going back over 70 years should be overruled." *Id.*

Williams was not the only case to take this functionalist approach.

Two later, in *Apodaca v. Oregon*, this Court assessed whether the Sixth Amendment guaranteed the right to a unanimous jury. *Apodaca v. Oregon*, 406 U.S. 404, 405-06 (1972). Relying on *Williams*, the four justices in the main opinion took a functionalist view: "Our inquiry must focus upon the function served by the jury in contemporary society." *Id.* at 410. And the justices found unanimity unimportant to the "function" of the criminal jury: "In terms of this function we perceive no difference between juries required to act unanimously and those permitted to convict or acquit by votes of 10 to two or 11 to one." *Id.* at 411. In a sister case, Justice Marshall again dissented. *Johnson v. Louisiana*, 406 U.S. 399, 399 (1972) (Marshall, J., dissenting). This time joined by Justice Brennan, Justice Marshall criticized the majority's functionalist approach "that allows it to strip away, one by one, virtually all the characteristic features of the jury as we know it." *Id.* at 400.

Instability surfaced almost immediately.

C. Within a decade, *Williams*'s functionalist approach proved problematic.

Just eight years later, this Court faced the next intrusion—a jury composed of five people—in *Ballew v. Georgia*, 435 U.S. 223, 224 (1978).

Already, research had proved the functional conclusions in *Williams* to stand on shaky ground.

"First," this Court acknowledged in *Ballew*, "recent empirical data suggest that progressively smaller juries are less likely to foster effective group deliberation." *Id.* at 232. And "this decline leads to inaccurate fact-finding and incorrect application of the common sense of the community to the facts." *Id.* Smaller groups are less likely to remember key details. *Id.* at 233. "Furthermore, the smaller the group, the less likely it is to overcome the biases of its members to obtain an accurate result." *Id.*

"Second, the data now raise doubts about the accuracy of the results achieved by smaller and smaller panels." *Id.* at 234. Particularly important, "the risk of convicting an innocent person … rises as the size of the jury diminishes." *Id.* And smaller juries were less likely to reach correct decisions. *Id.* at 234-35. In one study this Court identified, "12-person groups reached correct verdicts 83% of the time; 6-person panels reached correct verdicts 69% of the time." *Id.*

"Third, the data suggest that the verdicts of jury deliberation in criminal cases will vary as juries become smaller, and that the variance amounts to an imbalance to the detriment of one side, the defense." *Id.* at 236. Smaller juries are less likely to hang. *Id.* Studies showed that juries would hang with just one juror, but they were more likely to hang when two jurors were not convinced of guilt. *Id.* Jury size can then play a crucial role. "If a minority viewpoint is shared by 10% of the community, 28.2% of 12-member juries may be expected to have no minority representation, but 53.1% of 6-member juries would have none." *Id.* And 34% of 12-

person juries would have two minority-view members; only 11% of 6-person juries would have two. *Id.*

Fourth, these statistics identify "problems not only for jury decisionmaking, but also for the representation of minority groups in the community." *Id.* If a minority group makes up only 10% of the population, "53.1% of randomly selected six-member juries could be expected to have no minority representative among their members, and 89% not to have two." *Id.* at 237.

Fifth, the nature of the criminal system masks the problem. *Id.* Because our system "handles so many clear cases," one study posited that inconsistencies would arise in about 14% of cases. *Id.* But this undervalues case-by-case differences. *Id.* at 238. More to the point, it is in these borderline cases that the right to a jury is at its zenith. *Id.* at 237-38. "When the case is close, and the guilt or innocence of the defendant is not readily apparent, a properly functioning jury system will insure evaluation by the sense of the community and will also tend to insure accurate factfinding." *Id.* at 238.

This Court adhered to *Williams*. *Id.* at 239.

But the studies led this Court "to conclude that the purpose and functioning of the jury in a criminal trial is seriously impaired, and to a constitutional degree, by a reduction in size to below six members." *Id.* And this Court acknowledged that the line between five and six was murky. *Id.* "We readily admit that we do not pretend to discern a clear line between six members and five." *Id.* But the studies indicated any further reduction in size would be problematic. *Id.*

Importantly, *Ballew* dealt with a misdemeanor case. *Id.* at 225.

And still this Court ruled that reducing the jury to five people violated the Sixth Amendment. *Id.* at 225, 240-41.

Within a decade, *Williams*'s functional approach was a problem. And this Court started to back away from it. It drew a line at 6, but acknowledged that there was no real reason to draw the line there.

Fortunately, this Court has returned to the appropriate assessment: original understanding.

D. *Ramos* restored history as the measure of the Sixth Amendment.

Six years ago, in *Ramos v. Louisiana*, this Court again took up the issue of jury unanimity and rejected the functionalist approach that originated in *Williams*. *Ramos v. Louisiana*, 590 U.S. 83, 88, 93-94, 98-100 (2020).

The main problem with *Apodaca* was the functionalist approach that began with *Williams*: "The deeper problem is that the [*Apodaca*] plurality subjected the ancient guarantee of a unanimous jury verdict to its own functionalist assessment in the first place." *Id.* at 100.

This functionalist approach "overlook[ed] the fact that, at the time of the Sixth Amendment's adoption, the right to a trial by jury *included* a right to a unanimous verdict." *Id.* (emphasis original). Our founders' goal was not to create "fruitful topics for future cost-benefit analyses"; the goal was "to ensure that their children's children would enjoy the same hard-won liberty they enjoyed." *Id.* The right to a jury trial "may serve purposes evading our current notice. We are

entrusted to preserve and protect that liberty, not balance it away aided by no more than social statistics." *Id.*

The functionalist approach embraced in *Williams* and applied in *Apodaca* was a departure from this Court's Sixth Amendment jurisprudence. Before *Williams*, this Court was guided by the original public meaning of the Sixth Amendment. *Thompson v. Utah*, 170 U.S. 343, 350 (1898).

The eight years that followed *Williams* proved the foresight of our founders and the errors of the functionalist approach. Studies proved that smaller juries were functionally flawed. *Ballew v. Georgia*, 435 U.S. 223, 232-39 (1978). Reduced jury size meant less effective group deliberations, less accurate decisions, and less diversity, whether by viewpoint or protected status. *Id.* This Court stemmed the bleeding in *Ballew v. Georgia* and ruled that a 5-person jury violated the Sixth Amendment. *Id.* at 239. But this Court also admitted that it could not even "pretend to discern a clear line between six members and five." *Id.*

In *Ramos*, this Court returned its Sixth Amendment analysis to the original public meaning of the text.

E. Applying *Ramos*, "impartial jury" means a jury of 12.

Under *Ramos v. Louisiana*'s framework, the Sixth Amendment secures those features that defined a jury trial at the founding. *Ramos v. Louisiana*, 590 U.S. 83, 89-93 (2020).

Unanimity was one. *Id.*

Jury size was another. *See Thompson v. Utah*, 170 U.S. 343, 350 (1898); *Rasmussen v. United States*, 197 U.S. 516, 529 (1905); *Patton v. United States*, 281 U.S. 276, 292 (1930); Hon. Richard S. Arnold, *Trial by Jury: The Constitutional Right to a Jury of Twelve in Civil Trials*, 22 Hofstra L. Rev. 1, 8 (1993); 4 Blackstone Commentaries on the Laws of England 349 (1795).

The question is not whether a jury of fewer than 12 can, in the Court's judgment, reach reliable results. *Williams* asked that question. *Williams v. Florida*, 399 U.S. 78, 99-100 (1970). *Ramos* explains why it's the wrong question. *Ramos*, 590 U.S. at 98-100. The Constitution does not permit courts to discard historically essential features of a right just because they come to believe those features are unnecessary. *Id.* at 100.

At the founding, a criminal jury meant 12 people. *Williams* acknowledged that fact and declined to enforce it. *Ramos* requires the opposite approach. The two decisions cannot be reconciled.

2. This case is an ideal vehicle to resolve the question presented.

This case presents a clean, straightforward opportunity to decide whether *Williams v. Florida* should remain good law after *Ramos v. Louisiana*. Arizona law required that Mr. Armendaris receive only an eight-person jury, Mr. Armendaris preserved the constitutional issue, the lower court's decision was dictated by *Williams*, and no procedural or jurisdictional obstacles stand in the way of review.

First, Mr. Armendaris was deprived of a 12-person jury because Arizona law required an eight-person jury in his case. Ariz. Const. Art. 2, § 23; Ariz. Rev. Stat. § 21-102(B).

Mr. Armendaris faced serious consequences if convicted. He faced up to 8.75 years in prison. *Armendaris*, 567 P.3d 755, ¶ 20; Ariz. Rev. Stat. § 13-702(D). Even if not imprisoned, he faced lifetime probation. *Armendaris*, 567 P.3d 755, ¶ 11; Ariz. Rev. Stat. § 13-902(E). And he faced compelled sex-offender registration. *Armendaris*, 567 P.3d 755, ¶ 11; *see* Ariz. Rev. Stat. § 13-3821(A)(14).

Yet Mr. Armendaris was tried and convicted by an eight-person jury because his potential sentence did not exceed 30 years' imprisonment. Ariz. Const. Art. 2, § 23; Ariz. Rev. Stat. § 21-102(B). The jury size was not the result of consent, waiver, or strategic choice. It was imposed by law.

That posture matters. This case does not present questions about forfeiture, invited error, or voluntary relinquishment of a constitutional right. It squarely presents whether the Sixth Amendment permits a state to mandate criminal convictions by juries composed of fewer than 12 people.

Second, Mr. Armendaris preserved his Sixth Amendment challenge. Mr. Armendaris raised his Sixth Amendment challenge to the eight-person jury in a pretrial motion. *Armendaris*, 567 P.3d 755, ¶ 9. The trial court rejected the claim, and Mr. Armendaris renewed it on appeal. *Id.* at ¶¶ 10, 13. The Arizona Court of Appeals even acknowledged that Mr. Armendaris had preserved the claim. *Id.* at ¶ 13.

This separates Mr. Armendaris from many of the petitioners that have brought this issue to this Court's attention.

There is no dispute about preservation. The question presented is properly before this Court.

Third, the lower court's decision was based solely on adherence to *Williams* and Arizona cases that followed *Williams*. *Id.* at ¶ 19.

The court accurately explained Mr. Armendaris's argument. *See id.* First, the court should have evaluated the right to "trial by an impartial jury" as our founders understood it when adopting the Sixth Amendment. *Id.* Second, "the phrase 'meant 12 jurors' at the time of ratification." *Id.* (brackets omitted).

The court of appeals did not refute this reasoning.

Rather, the court ruled that it was bound by *Williams*. *Id.* at ¶ 19. "Arizona courts must follow United States Supreme Court precedent 'with regard to the interpretation of the federal constitution.'" *Id.* (quoting *Pool v. Superior Ct.*, 677 P.2d 261, 271 (Ariz. 1984)).

"*Williams* still holds today." *Id.* And only this Court can reconsider *Williams*. *See id.* (citing *Agostini v. Felton*, 521 U.S. 203, 207 (1997)).

That acknowledgment underscores why review is warranted. Lower courts are bound by *Williams*, even where they recognize its tension with this Court's current Sixth Amendment jurisprudence. Only this Court can resolve that conflict.

Fourth, this case presents a pure issue of federal constitutional law and does not include any separate legal grounds for affirmance.

The decision below rests entirely on the Sixth Amendment, as incorporated through the Fourteenth Amendment. *Armendaris*, 567 P.3d 755, ¶¶ 15-20. Arizona law requires eight-person juries in cases like this one, but state law cannot mandate what the Sixth Amendment forbids. The court of appeals expressly relied on *Williams* as controlling federal precedent. *Id.* at ¶ 19. This case therefore presents a pure question of federal constitutional law.

This case is also not impacted by any harmless-error analysis. Although the lower court stated that it reviews constitutional errors for harmlessness, it did not engage in any harmless-error analysis. *Id.* at ¶¶ 13 (noting the court reviews for harmless error because the issue had been preserved), 14-20 (never engaging in a harmless-error review). As a result, there is no alternative ground on which the judgment can be affirmed. The sole issue is whether the eight-person jury violated the Sixth Amendment.

3. The question presented is recurring, important, and has already prompted calls for this court's review.

Whether the Sixth Amendment permits states to convict criminal defendants using juries smaller than 12 is a recurring and consequential constitutional question. It affects the structure of criminal trials, the scope of a fundamental constitutional right, and the uniformity of Sixth Amendment protections nationwide.

First, jurists and academics have called on this Court to address the tension between *Williams* and *Ramos*.

And Justice Gorsuch is one of the jurists calling to resolve the issue. In *Khorrami v. Arizona* and *Cunningham v. Arizona*, Justice Gorsuch dissented from the denial of certiorari and urged the Court to reconsider *Williams*. *Khorrami v. Arizona*, 598 U.S. __, 143 S. Ct. 22 (2022) (Gorsuch, J., dissenting from denial of certiorari); *Cunningham v. Florida*, 144 S. Ct. 1287 (2024) (Gorsuch, J., dissenting from denial of certiorari).

Judge Lohier of the Second Circuit—writing a concurring opinion for eight judges—observed that "[g]ood arguments may well exist for revisiting *Williams* …." *United States v. Johnson*, 143 F.4th 184, 185 (2d Cir. 2025).

Judge Gross of the District Court of Appeals of Florida also recognized the tensions between *Ramos* and *Williams* in a concurring opinion in *Guzman v. State*, 350 So.3d 72, 78 (Fla. App. 2022) (Gross, J., concurring). Because of this tension, "like Wile E. Coyote momentarily suspended in midair after running off a cliff, *Williams* hovers in the legal ether, waiting for further examination by the Supreme Court." *Id.*

Judge Makar, also with the District Court of Appeals of Florida, similarly recognized the tension in a concurring opinion in *Phillips v. State*, 316 So.3d 779, 788 (Fla. App. 2021) (Makar, J., concurring). Judge Makar observed that *Ramos* rejected *Apodaca*'s functionalist approach—which was first implemented in *Williams*. *Id.* Judge Makar thus noted "that the issue of jury size under the Sixth Amendment may be ripe for re-evaluation." *Id.*

Academics too have called on this Court to revisit *Williams* in the wake of *Ramos*. *See* Wanling Su & Rahul Goravara, *What is a Jury?*, 103 N.C. L. Rev. 969, 977-78 (2025); Justin W. Aimonetti, Holmes v. Walton *and its enduring lessons for originalism*, 106 Marq. L. Rev. 73, 92-96 (2022).

But the binding nature of *Williams* prevents the very sort of split this Court would normally look for.

Judges Lohier, Gross, and Makar were relegated to issuing concurring opinions that pointed out the tension between *Williams* and *Ramos*.

Others, like Judge B.L. Thomas with the District Court of Appeal of Florida, have argued that the Sixth Amendment does not require a 12-person jury. *Salmon v. State*, 387 So.3d 393, 394-95 (Fla. App. 2024).

And many courts identify the argument and merely follow *Williams*. That's what the Appellate Division of the New York Supreme Court did in *People v. Sargeant*, 230 A.D.3d 1341, 1346-47 (N.Y. Supreme Ct. App. Div. 2024). And it's what the Arizona Court of Appeals did here. *State v. Armendaris*, 567 P.3d 755, ¶ 19 (Ariz. App. 2025).

Second, the issue is recurring in states like Florida and Arizona. Only six states authorize juries composed of fewer than 12 people: Arizona, Connecticut, Florida, Indiana, Massachusetts, and Utah. Still, since *Ramos*, defendants have repeatedly asked this Court to reconsider *Williams*. *See Khorrami v. Arizona*, No. 21-1553; *Cunningham v. Florida*, No. 23-5171; *Arrellano-Ramirez v. Florida*, No. 23-5567; *Crane v. Florida*, 23-5455; *Guzman v. Florida*, No. 23-5173; *Jackson v.*

Florida, No. 23-5570; *Sposato v. Florida*, No. 23-5575; *Fontes v. Arizona*, No. 25-5819; *Jose v. Arizona*, No. 24-6520. Those petitions reflect a recurring problem: lower courts are bound by *Williams*.

Third, the current state of the law produces unequal Sixth Amendment protections. The result of *Williams* is a patchwork system in which the Sixth Amendment jury-trial right varies depending on where a defendant is tried. Most states continue to guarantee 12-person juries in criminal cases, either by statute or constitutional provision. *See Khorrami*, 143 S. Ct. at 23 (Gorsuch, J., dissenting from denial of certiorari). A small minority—including Arizona—authorize juries smaller than 12. *See id.* Thus, two defendants accused of identical crimes may receive materially different Sixth Amendment protections based solely on geography. That disparity is difficult to reconcile with a constitutional provision that was meant to secure a uniform national right.

This issue is too important to leave unresolved. The jury trial right occupies a central place in the constitutional structure. It is fundamental to our justice system and serves as a critical safeguard against government overreach. The size of the jury is not a peripheral detail; it affects deliberation, representation, and the collective judgment that the Sixth Amendment guarantees.

4. Stare decisis does not bar reconsideration of *Williams v. Florida*.

Although stare decisis promotes stability, it does not require this Court to adhere to all decisions.

In *Ramos v. Louisiana*, Justice Kavanaugh set forth three overarching factors that provide the "special justification" needed to overrule a prior constitutional decision. *Ramos v. Louisiana*, 590 U.S. 83, 121 (Kavanaugh, J., concurring). First, the decision is grievously or egregiously wrong. *Id.* at 121-22. Second, the prior decision has caused significant negative jurisprudential or real-world consequences. *Id.* at 122. And third, overruling would not unduly upset reliance interests. *Id.*

Applying those three standards, this Court should overrule *Williams*.

First, *Williams* was egregiously wrong. In *Ramos*, Justice Kavanaugh reasoned, "When *Apodaca* was decided, it was already an outlier in the Court's jurisprudence, and over time it has become even more of an outlier." *Id.* at 125.

This applies with even greater strength to *Williams v. Florida*, 399 U.S. 78 (1970). Before *Williams*, this Court had a long history of looking to the original meaning of the Sixth Amendment. *See Thompson v. Utah*, 170 U.S. 343, 350 (1898); *Cap. Traction Co. v. Hof*, 174 U.S. 1, 15 (1899); *Maxwell v. Dow*, 176 U.S. 581, 586 (1900); *Rasmussen v. United States*, 197 U.S. 516, 529 (1905); *Patton v. United States*, 281 U.S. 276, 292 (1930). That history repeatedly and rightly concluded that "Our founders understood the word *jury* to refer to a group of twelve people." *See Patton*, 281 U.S. at 292. But *Williams* departed from this long line of jurisprudence and implemented a brand-new functionalist approach. *Williams*, 399 U.S. at 99-100. The same approach that this Court ruled improper in *Ramos*. *Ramos*, 590 U.S. at 100, 106.

Second, *Williams* has caused significant negative consequences. In his *Ramos* concurrence, Justice Kavanaugh noted that *Apodaca* had sanctioned "the conviction at trial … of some defendants who might not be convicted under the proper constitutional rule …." *Id.* at 126 (Kavanaugh, J., concurring). That basis alone "has traditionally supplied some support for overruling an egregiously wrong criminal-procedure precedent." *Id.* But Louisiana's reasons for removing unanimity was also important: racism. *Id.* at 126-29.

Again, this conclusion applies with equal, if not greater, force to *Williams*. In the eight years that followed *Williams*, studies proved that smaller juries were less effective. *See Ballew v. Georgia*, 435 U.S. 223, 232-39 (1978). The studies showed that smaller juries were "less likely to foster effective group deliberation" and more likely convict an innocent person. *Id.* at 232-35. Smaller juries created "an imbalance to the detriment of one side, the defense," and exclude minority viewpoints. *Id.* at 236. And it also meant that juries were more likely to exclude minority jurors. *Id.* at 236-37. While the purpose may not have been racism, studies confirm the effect is the same. *See id.*

Third, overruling *Williams* would not unduly upset any reliance interests. In *Ramos*, only two jurisdictions used non-unanimous juries. *See Ramos*, 590 U.S. at 129 (Kavanaugh, J., concurring). As Justice Kavanaugh recognized, overruling *Apodaca* would "invalidate some non-unanimous convictions where the issue is preserved and the case is still on direct review." *Id.* But that was "a small price to

pay for the uprooting of this weed." *Id.* (quoting *Hubbard v. United States*, 514 U.S. 695, 717 (1995) (Scalia, J., concurring)).

Here, only six jurisdictions provide for juries of fewer than 12 people. *See Khorrami v. Arizona*, 598 U.S. __, 143 S. Ct. 22, 23 (Gorsuch, J., dissenting from denial of certiorari). While more than the two jurisdictions in *Ramos*, nearly all states have refused to implement *Williams*. Certainly, some convictions may be invalidated—those "where the issue is preserved and the case is still on direct review." *See Ramos*, 590 U.S. at 129 (Kavanaugh, J., concurring). But that's a small price to pay.

This Court is willing to overrule cases when they are egregiously wrong, have caused significant negative consequences, and are not heavily relied upon. Cases like *Williams*.

CONCLUSION

Williams v. Florida deviated from this Court's Sixth Amendment approach. Before *Williams*, this Court consistently interpreted the Sixth Amendment as our founders understood it: a jury of 12 people who had to reach a unanimous decision. But *Williams*'s functionalist approach disrupted this steady jurisprudence. Jury size—unnecessary to the function of the jury. Jury unanimity—unimportant.

In *Ramos v. Louisiana*, this Court correctly rejected the functionalist approach that *Williams* initiated. And this Court returned to reading our Sixth Amendment as our founders did.

But *Williams* remains. And lower courts are left powerless to do anything about *Williams* because they are bound by this Court's decisions.

Williams invented the functionalist approach this Court rejected in *Ramos*.

The time has come for this Court to overturn *Williams*. This Court should grant the petition.

Respectfully submitted,

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