

No. 25-6623

In the Supreme Court of the United States

HAMED KIAN,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

On Writ of Certiorari to the Fourth District Court of
Appeal of Florida

**BRIEF OF 38 CURRENT AND FORMER
PROSECUTORS, LAW ENFORCEMENT
OFFICERS, AND FORMER JUDGES;
FAIR AND JUST PROSECUTION; AND
LAW ENFORCEMENT ACTION
PARTNERSHIP AS AMICI CURIAE
SUPPORTING PETITIONER**

Daniel Woofter
Counsel of Record
Kevin K. Russell
RUSSELL & WOOFTER LLC
1701 Pennsylvania
Avenue NW, Suite 200
Washington, DC 20006
(202) 240-8433
dw@russellwoofter.com

QUESTION PRESENTED

Whether Petitioner was deprived of his right, under the Sixth and Fourteenth Amendments, to a trial by a twelve-person jury when the defendant is charged with a serious felony.

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INTEREST OF AMICI CURIAE¹

Amici curiae are 38 current and former prosecutors, law enforcement officers, and former judges from jurisdictions across the country; Fair and Just Prosecution, a project of the Tides Center; and Law Enforcement Action Partnership. A complete list of amici and their titles appears in the appendix at the end of this brief.

Amici have spent their careers in law enforcement and courtrooms helping to secure convictions the public can trust. But their work is only as legitimate as the process that produces it. The twelve-person jury is the heart of that process. When twelve members of the community hear the evidence, deliberate, and unanimously pronounce judgment, the verdict carries an authority no prosecutor or law enforcement officer could marshal alone. That is because the public is more likely to accept the outcome when a representative jury drawn from the community decides it.

For serious crimes, trial by twelve-person jury is required by nearly every state. It is thus the institution in which amici were trained and in which many work to resolve such cases. Amici have a distinct professional stake in whether a state may instead try a person accused of a serious crime before a jury of six. The answer matters to defendants, of course, who depend on a fair trial, as well as communities that must have faith that the system is treating all persons

¹ No counsel for any party authored this brief in whole or in part, and no person or entity other than amici curiae or their counsel made a monetary contribution intended to fund the brief's preparation or submission.

equally under the law. But it also matters to the prosecutors and law enforcement officers like amici, who sometimes must pursue the justice system's most consequential judgments.

INTRODUCTION AND SUMMARY OF ARGUMENT

I. Before the turn of the *last* century, this Court declared that a defendant enjoys a “constitutional right to demand that his liberty should not be taken from him except by the joint action of the court and the unanimous verdict of a jury of twelve persons.” *Thompson v. Utah*, 170 U.S. 343, 351 (1898), *overruled on other grounds by Collins v. Youngblood*, 497 U.S. 37 (1990); *see Ramos v. Louisiana*, 590 U.S. 83, 92 (2020). For the next seven decades, the Court repeated that rule without qualification. *See Williams v. Florida*, 399 U.S. 78, 117 (1970) (Marshall, J., dissenting in part). But in 1970, *Williams v. Florida* declared the number twelve a “historical accident,” “wholly without significance ‘except to mystics,’” and permitted Florida to try serious crimes before juries of six. *Id.* at 102 (citation omitted).

Williams broke from centuries of tradition. The Court has since dismantled its premise. In *Ramos*, the Court held that the Sixth Amendment means what it meant when adopted, refusing to trade its “ancient guarantee” for a modern cost-benefit analysis “aided by no more than social statistics.” 590 U.S. at 100-01. The Sixth Amendment required unanimous juries at the time; it requires unanimity now. *Ibid.*

What *Ramos* did for unanimity, the Court should now do for size. The two requirements arrived together. *See* 4 William Blackstone, *Commentaries*

*343 (conviction required “the unanimous suffrage of twelve of his equals and neighbours”); *Thompson*, 170 U.S. at 351 (conviction requires “joint action of the court and the *unanimous verdict* of a jury of *twelve persons*” (emphasis added)). And new historical scholarship confirms that the Founding generation regarded a panel of fewer than twelve not merely as a smaller jury but as no jury at all.

II. Even judged by *Williams*’s obsolete functionalism, the six-person jury has failed. Within a decade of deciding *Williams*, this Court acknowledged empirical data showing that smaller juries deliberate less effectively, decide less accurately, and are less likely to include even a single member of a minority group. *Ballew v. Georgia*, 435 U.S. 223, 232-37 (1978) (opinion of Blackmun, J.). A half-century of ensuing research confirms those findings. Just like non-unanimity accomplished by design, shrinking the jury erases the perspectives and participation of jurors of color from the jury room.

That result was no historical accident. Jury-size restrictions, including Florida’s Reconstruction-era statute introducing the six-person jury, trace to the slave courts of the Founding era and Jim Crow enactments that followed the Civil War. There is no good reason to preserve these vestiges of our nation’s darkest chapter.

III. Law enforcement cannot persuade witnesses to come forward, victims to report, and communities to accept verdicts without public confidence in the fairness and integrity of the system. “Little else matters if a state cannot persuade its citizens that it wields legitimate authority.” *Willey v. Harris Cnty.*

Dist. Att’y, 27 F.4th 1125, 1133 (5th Cir. 2022) (citation omitted).

The twelve-person jury is what centuries of practice have taught citizens to expect when the government seeks to take a person’s liberty. It is the rule of nearly every state. The public has reason to discount a verdict that results in a serious-crime conviction rendered by only six jurors.

Defendants bear the cost of the verdicts the community does not trust. But so do prosecutors and police. And everyone ultimately suffers as a result.

ARGUMENT

I. A SERIOUS CRIMINAL CASE HISTORICALLY REQUIRED A JURY OF TWELVE.

Start where *Ramos* began: What did “trial by an impartial jury” mean to those who ratified the Sixth Amendment? *Ramos v. Louisiana*, 590 U.S. 83, 89-92 (2020). The historical record is emphatic. *See* Petr. Br. 5-11, 18-23. By the time of the Sixth Amendment’s adoption, the twelve-person criminal jury was “an institution with a nearly four-hundred-year-old tradition in England.” *See Khorrami v. Arizona*, 143 S. Ct. 22, 23 (2022) (Gorsuch, J., dissenting from the denial of certiorari) (quotation marks omitted). Guilt required “the *unanimous* suffrage of *twelve* of his equals and neighbours.” 4 William Blackstone, *Commentaries* *343 (emphasis added). James Wilson, both a Framers and Justice of this Court, taught that “the *unanimous* sentiment of the *twelve jurors* is of indispensable necessity” to convict. 2 *Collected Works of James Wilson* 985 (Kermit L. Hall & Mark David Hall eds., 2007) (emphasis added).

For seventy years, this Court treated both requirements as unassailable. On the size of the jury, this Court “could not have been plainer.” *Khorrami*, 143 S. Ct. at 24 (Gorsuch, J., dissenting from the denial of certiorari) (describing *Thompson v. Utah*, 170 U.S. 343 (1898)). The jury contemplated by the Constitution is “a jury constituted, as it was at common law, of twelve persons, neither more nor less.” *Thompson*, 170 U.S. at 349 (citations omitted). A year after *Thompson*, the Court described trial by jury “in the primary and usual sense of the term” as “a trial by a jury of 12.” *Cap. Traction Co. v. Hof*, 174 U.S. 1, 13 (1899). It professed “no doubt” on the point the following year. *Maxwell v. Dow*, 176 U.S. 581, 586 (1900) (citing *Thompson*, 170 U.S. at 349). By 1930, the matter was “not open to question”; the Court warned that sanctioning even “the voluntary reduction of a jury from twelve to eleven” on the theory that doing so “is only a slight reduction, is not to interpret [the Constitution], but to disregard it.” *Patton v. United States*, 281 U.S. 276, 288, 292 (1930). Even as late as 1968, the Court was still quoting Blackstone’s “twelve of his equals and neighbours” as a jury right the Fourteenth Amendment incorporated as governing the states. *Duncan v. Louisiana*, 391 U.S. 145, 151-52 (1968). Generations of prosecutors met that standard and secured convictions that stood sturdier for it.

When *Williams* approved Florida’s six-person jury for all serious, non-capital criminal cases, it defied “centuries of precedent.” *Khorrami*, 143 S. Ct. at 23 (Gorsuch, J., dissenting from the denial of certiorari). The Court offered three rationales. None survives the Court’s recent decision in *Ramos*.

First, Williams conceded that “a jury at common law in 1789” consisted of twelve members, but read the Senate’s deletion of Madison’s draft language guaranteeing the jury’s “accustomed requisites” as freeing the states from the number. 399 U.S. at 92-97. Petitioner explains why *Ramos* forecloses that inference. Petr. Br. 29-30. In short, “rather than dwelling on text left on the cutting room floor, we are much better served by interpreting the language Congress retained and the States ratified.” *Ramos*, 590 U.S. at 98.

Second, Williams dismissed *Thompson*, *Maxwell*, *Patton*, and their kin as “dictum.” 399 U.S. at 91-92. But *Ramos* rejected the same gambit when Louisiana insisted these venerable precedents were “dicta all the way down,” as the Court put it. 590 U.S. at 96-97; see Resp. Br. 40-41, *Ramos*, 590 U.S. 83 (No. 18-5924). Even Louisiana’s own brief read them as jury-size holdings. In attempting to prove up that this Court had never squarely held unanimity constitutionally required, Louisiana described *Thompson* as a case that “addressed whether federal law required a jury in the territory of Utah to consist of twelve members,” and *Maxwell* and *Patton* as “likewise cases addressing whether the Constitution requires a jury to consist of twelve members.” Resp. Br. 40, *Ramos*, *supra*.

Third, Williams wagered that six jurors would “probably” deliberate and represent the community as well as twelve, while conceding that “few experiments” supported the claim. See 399 U.S. at 100-01. Petitioner explains why *Ramos* forbids the tradeoff. Petr. Br. 26-27. Courts are “entrusted to preserve and protect that liberty, not balance it away aided by no more than social statistics.” *Ramos*, 590

U.S. at 100 (footnote omitted); *see also infra* Part II (the gamble has also been lost on its own terms).

The Founding-era record makes the same point from its darkest corner. *Williams* supposed that “little thought was actually given” to jury size at the Founding, and that twelve was an “accidental feature of the jury.” 399 U.S. at 90, 99. A comprehensive archival study of Founding-era practice proves the opposite. *See* Wanling Su & Rahul Goravara, *What Is a Jury?*, 103 N.C. L. Rev. 969, 975 (2025) (examining the Seventh Amendment’s civil jury guarantee, ratified alongside the Sixth in 1791). Eighteenth-century Americans had a name for a panel of fewer than twelve, because they maintained such panels for enslaved people alone. *Ibid.* While Carolina’s charter, adopted in 1669, had provided that “every jury shall consist to twelve men,” *id.* at 984 & n.80 (cleaned up), the Carolinas’ “slave courts” impaneled as few as three (SC) or four (NC) freeholders to try enslaved defendants in proceedings that contemporaries described as “non-jury” trials, *id.* at 983, 987, 988-89. Impaneling fewer than twelve was understood as “an insult so stingy” it was reserved for those denied civil and constitutional rights altogether, “a deliberate choice to institutionalize second-class justice.” *Id.* at 984. When North Carolina reformed its law in 1793, it extended “the opportunity to request trial by twelve jurors” to enslaved defendants and “free persons of color,” but limited the twelve to “owners of slaves.” *Id.* at 988-89 & n.122.

Ratifying-convention records, Founding-era state practice, and early treatises converge on one conclusion: “a constitutional jury in 1791 required twelve jurors.” *Id.* at 1029. Put another way, the

Founding generation regarded twelve as the line between a jury and something less.

Williams is left with nothing to stand on. The Sixth Amendment’s “trial by an impartial jury” carries the common-law content of unanimity, and a state may not eliminate that common-law requirement because a later court deems it functionally dispensable. *Ramos*, 590 U.S. at 90-93, 100-01. The same holds for the common-law requirement that a jury be made up of twelve citizens. Both rules appear in the same sentence of Blackstone. Both run through the same line of this Court’s precedents. No principled reading freezes one while leaving the other to legislative experimentation. *Williams* “was wrong the day it was decided, it remains wrong today, and it impairs both the integrity of the American criminal justice system and the liberties of those who come before our Nation’s courts.” *Khorrami*, 143 S. Ct. at 23 (Gorsuch, J., dissenting from the denial of certiorari).

No surprise, then, that nearly every state already requires twelve-person juries in serious criminal cases. *See ibid.* (Gorsuch, J., dissenting from the denial of certiorari). Even the few outliers only tolerate smaller juries for some cases. *See, e.g.*, Ariz. Rev. Stat. Ann. § 21-102 (West 2026) (twelve-person juries if a case involves a death sentence or carries a term of thirty years or more); Fla. Stat. Ann. § 913.10 (West 2026) (twelve jurors for capital cases); Ind. Code Ann. §§ 35-37-1-1(b), 35-50-2-7 (West 2026) (twelve jurors for most felony cases while permitting fewer jurors for only the least serious felonies).

II. TWELVE-PERSON JURIES ARE MORE REPRESENTATIVE AND MORE ACCURATE, AND ANY FEWER HARMS COMMUNITIES OF COLOR MOST, AS HISTORICALLY INTENDED.

Even if the Constitution's meaning turned on the six-person jury's performance, *Williams* would still be indefensible. The wager at its heart has been lost. *Williams* predicted that a jury of six would be as reliable and provide just as fair a "possibility for obtaining a representative cross-section of the community" as a jury of twelve. 399 U.S. at 100. But before the ink was dry, scholars showed that *Williams* had overread the handful of studies behind its tepid prediction that six would "probably" perform as well as twelve. See Hans Zeisel, . . . *And Then There Were None: The Diminution of the Federal Jury*, 38 U. Chi. L. Rev. 710, 712-15 (1971); *Khorrami*, 143 S. Ct. at 26 (Gorsuch, J., dissenting from the denial of certiorari).

Within eight years, the data caught up with the Court. In *Ballew v. Georgia*, the Court refused to extend *Williams* after canvassing empirical studies showing that "progressively smaller juries are less likely to foster effective group deliberation," which leads to lower quality verdicts. 435 U.S. 223, 231-34 (1978) (opinion of Blackmun, J.). Memory of the evidence suffers and fewer perspectives are brought to bear, raising "doubts about the accuracy of the results achieved by smaller and smaller panels." *Id.* at 234. Worse, as juries become smaller, "the detriment [falls on] one side, the defense." *Id.* at 236.

The question is not whether a doubting juror exists, but whether his doubt survives deliberation. Group research shows that a juror in the minority

adheres to his position far more often when at least one other juror shares it. *See Ballew*, 435 U.S. at 236 & n.25. If 10% of the community doubts the evidence of guilt, 34% of twelve-member panels could be expected to include two jurors who question the strength of the evidence, whereas only 11% of six-member panels would. *Id.* at 236 (footnote omitted). And although the Court did “not pretend to discern a clear line between six members and five,” the data nonetheless “raise[d] substantial doubt about the reliability and appropriate representation of panels smaller than six.” *Id.* at 239. The Court in *Ballew* thus refused to extend *Williams* to five-member panels, and in so doing undermined the entire functional rationale on which *Williams* rested. *See Khorrami*, 143 S. Ct. at 26 (Gorsuch, J., dissenting from the denial of certiorari).

The half-century of research since *Ballew* only confirms and expands the troubling data the Court confronted in the wake of *Williams*. A meta-analysis synthesizing the accumulated studies confirmed that twelve-member juries deliberate longer, recall the evidence more accurately, and give greater attention to dissenting voices. *See, e.g.,* Michael J. Saks & Mollie Weighner Marti, *A Meta-Analysis of the Effects of Jury Size*, 21 L. & Hum. Behav. 451, 455-66 (1997) (finding that larger juries hang more often, consistent with minority-view jurors having “attitudinal allies, and therefore be[ing] better able to resist pressure to conform”). In amici’s experience, these are critical virtues. Deliberation length, collective memory, and attention to dissent are the difference between a verdict that reflects the evidence and one that reflects the loudest voice in a small room. They are the

qualities that promote confidence in the outcome of a trial and let prosecutors and law enforcement stand behind a conviction years later, when it is tested on appeal or collateral review. *See infra* p.15.

The representational failure is starker still, as field research on actual juries confirms. In one study, “28.1 percent of the six-member juries lacked even one black juror,” while “only 2.1 percent of the 12-member juries were entirely without black representation.” Shari Seidman Diamond et al., *Achieving Diversity on the Jury: Jury Size and the Peremptory Challenge*, 6 J. Empirical Legal Stud. 425, 442 (2009) (footnote omitted).

Jury diversity also improves the deliberation itself. White jurors are more likely to convict a Black defendant when on an all-white jury. Samuel R. Sommers & Phoebe C. Ellsworth, *How Much Do We Really Know About Race and Juries? A Review of Social Science Theory and Research*, 78 Chi.-Kent L. Rev. 997, 1028-29 (2003). And the benefit of mixed juries is not confined to any one class of defendants. Racially diverse juries generally deliberate longer, discuss more of the evidence, make fewer factual errors, and prove better equipped to identify problems like racial profiling and stereotyping. Samuel R. Sommers, *On Racial Diversity and Group Decision Making: Identifying Multiple Effects of Racial Composition on Jury Deliberations*, 90 J. Personality & Soc. Psych. 597, 601, 604-08 (2006) (controlled experiment comparing deliberations of racially homogeneous and racially mixed mock juries, which deliberated on the same videotaped trial). In fact, the significant gap in conviction rates between Black and white defendants that appears when no Black

members are in the jury pool “is eliminated” when the pool includes even one. Shamena Anwar et al., *The Impact of Jury Race in Criminal Trials*, 127 Q.J. Econ. 1017, 1019-20, 1034-35 (2012).

Ramos condemned non-unanimity in part because it let majorities erase the votes of jurors of color. See 590 U.S. at 87-88. A rule halving the jury’s size achieves the same erasure without striking a single juror. To be sure, this Court guarantees a representative pool, not a representative panel. *Lockhart v. McCree*, 476 U.S. 162, 173-74 (1986). But that limitation is only tolerable because the jury’s number supplies “a fair possibility for obtaining a representative cross-section of the community.” *Williams*, 399 U.S. at 100. Cut the number and the venire may perfectly mirror the community, yet the sampling erases what the pool was built to preserve.

That distinction between selection and size is the Court’s own. *Lockhart* singled out *Ballew* as the one decision suggesting that the cross-section requirement might reach beyond “the context of jury panels or venires,” and set it apart because *Ballew* “did not involve jury selection at all, but rather the size of the petit jury.” *Lockhart*, 476 U.S. at 173-74 n.14 (emphases omitted). And whether or not any single trial would support an equal-protection claim, “the question of representation does constitute one factor of several” bearing on the constitutional adequacy of a smaller jury. *Ballew*, 435 U.S. at 242.

None of this should surprise. As petitioner describes, Petr. Br. 11-12, jury shrinkage in this country has a disgraceful lineage. As previewed above, in the Founding era, panels of fewer than

twelve were the signature of the slave courts—second-class process for those denied the Constitution’s protection. *See supra* pp. 7-8. In the Jim Crow era, “some States restricted the size of juries and abandoned the demand for a unanimous verdict as part of a deliberate and systematic effort to suppress minority voices in public affairs.” *Khorrami*, 143 S. Ct. at 27 (Gorsuch, J., dissenting from the denial of certiorari). Louisiana’s 1898 Constitution permitted five-member juries alongside the poll tax, the literacy test, and the grandfather clause. *Ibid.*; *see Ramos*, 590 U.S. at 87-88. South Carolina’s post-war laws provided for eight-member juries in the district courts given jurisdiction over “all criminal cases wherein the accused is a person of color.” *Khorrami*, 143 S. Ct. at 27 (Gorsuch, J., dissenting from the denial of certiorari) (quoting S.C. Const. art. III, § 1 and 1866 S.C. Acts 493, § 3). And Florida’s own six-person jury descends from chapter 3010 of the Laws of 1877—enacted weeks after the last federal troops withdrew from the State—and sustained that same year against a direct challenge to trial by “a jury of six.” *See Gibson v. State*, 16 Fla. 291, 298-300 (1877); Jerrell H. Shofner, *Reconstruction and Renewal, 1865–1877*, in *The History of Florida* 260, 273 (Michael Gannon ed., first paperback prtg. 2018).

That the Florida Legislature preserved twelve jurors for capital cases while cutting every other jury to six provides Florida no cover. *See Gibson*, 16 Fla. at 297-98 (“twelve men shall constitute a jury to try all capital cases, and six men shall constitute a jury to try all other offences” (quoting 1877 Fla. Laws 54, ch. 3010, § 6)). The carve-out proves the Florida Legislature knew exactly what the common-law jury

was and how to preserve it. It chose to deviate for the mine-run of serious felonies in the same session that restored a discretionary “integrity, fair character, sound judgment and intelligence” jury-qualification standard “used to eliminate almost every black citizen from the southern trial venire.” Douglas L. Colbert, *Challenging the Challenge: Thirteenth Amendment as a Prohibition Against the Racial Use of Peremptory Challenges*, 76 Cornell L. Rev. 1, 89-90 (1990); 1877 Fla. Laws 53, ch. 3010, § 1; *accord* Petr. Br. 12.

Amici do not contend that every state that shrank its jury acted from racial bias. Some, no doubt, sought only economy. *See Khorrami*, 143 S. Ct. at 27 (Gorsuch, J., dissenting from the denial of certiorari). But whatever the motive, the exclusionary effect is the same, “sad truth borne out by hard experience.” *Ibid.*

III. PUBLIC TRUST IN JURY VERDICTS IS THE FOUNDATION OF LAW ENFORCEMENT’S ABILITY TO SAFEGUARD THE PUBLIC.

Amici write finally to explain, from the prosecutor’s side of the courtroom, why this case matters to the everyday administration of criminal justice. “A state has no higher interest” than the fairness and legitimacy of its government, for “[l]ittle else matters if a state cannot persuade its citizens that it wields legitimate authority.” *Willey v. Harris Cnty. Dist. Att’y*, 27 F.4th 1125, 1133 (5th Cir. 2022) (footnote and citation omitted). The “people sensed from experience and observation that, especially in the administration of criminal justice, the means used to achieve justice must have the support derived from public acceptance of both the process and its results.”

Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555, 571 (1980) (plurality opinion). “To work effectively, it is important that society’s criminal process ‘satisfy the appearance of justice.’” *Id.* at 571-72 (quoting *Offutt v. United States*, 348 U.S. 11, 14 (1954)). The entire legal system “depends in large measure on the public’s willingness to respect and follow its decisions.” See *Williams-Yulee v. Fla. Bar*, 575 U.S. 433, 445-46 (2015) (so holding as to the judiciary).

When a state cuts the jury in half, thereby producing a body that deliberates less, remembers less, and errs more, *supra* Part II, it locks in—behind near-absolute deference—a verdict the public cannot trust. On appeal, a verdict generally stands so long as any rational juror could have found the elements beyond a reasonable doubt. See *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). That deference protects the jury’s province: resolving conflicts in testimony, weighing the evidence, and drawing inferences. But deference of that magnitude presupposes that twelve members of the community deliberated to a unanimous judgment.

Recent empirical work further confirms that public trust in prosecutors is inseparable from public trust in the courts. “When the courts are seen as fair and effective, prosecutors inherit credibility.” Joshua Baldwin et al., *The People’s Attorney? Examining Public Trust in the Prosecutor’s Office*, J.L. & Cts., at 1, 13 (2026), <https://doi.org/10.1017/jlc.2026.10027>. When people view prosecutors, police, courts, and the law as legitimate, they more readily report crimes, cooperate as witnesses, and accept police and judicial system authority. See Tom R. Tyler & Jeffrey Fagan, *Legitimacy and Cooperation: Why Do People Help the*

Police Fight Crime in Their Communities?, 6 Ohio St. J. Crim. L. 231, 263 (2008); Tom R. Tyler & Jonathan Jackson, *Popular Legitimacy and the Exercise of Legal Authority: Motivating Compliance, Cooperation and Engagement*, 20 Psych., Pub. Pol'y, & L. 78, 78-79 (2014). When that trust erodes, the opposite is true, and the consequences are practical and immediate. The community will no longer view law enforcement and the courts as the means to seek justice. Witnesses stop cooperating. Victims stop reporting. Everyone becomes less safe as a result.

The jury is the institution that generates the trust on which all of this depends, and the twelve-person jury is the one the public knows. For generations, virtually every American lawyer's education and experience has assumed that a serious criminal case means twelve jurors in the box. That is because the federal courts and nearly every state have long guaranteed twelve-person juries for serious criminal cases. *See Khorrami*, 143 S. Ct. at 23 (Gorsuch, J., dissenting from the denial of certiorari); Fed. R. Crim. P. 23(b)(1). American film and television invariably put twelve jurors in the box. *See, e.g., 12 Angry Men* (United Artists 1957) (in which a lone dissenter's persistence forces the other eleven jurors to confront the evidence again). When ordinary citizens picture a jury deciding someone's fate, they picture twelve. It is embedded in the culture. Accordingly, when six jurors in an outlier state convict someone of a serious felony, the verdict comes from a body the national community does not fully recognize.

Defendants suffer the most, of course. As discussed, they receive less deliberation, less accuracy, and less hope of a jury of peers than

constitutionally promised. But they do not suffer alone. On top of the law enforcement and community harms described above, a six-person jury shuts citizens out of one of the most important ways in which they govern. Jury service is a “duty, honor, and privilege.” *Powers v. Ohio*, 499 U.S. 400, 415 (1991). “Other than voting, serving on a jury is the most substantial opportunity that most citizens have to participate in the democratic process.” *Flowers v. Mississippi*, 588 U.S. 284, 293 (2019) (citing *Powers*, 499 U.S. at 407). A jury of twelve doubles that opportunity. And the broader community can better trust a verdict rendered by twelve of its own, drawn from its full breadth, deliberating to a considered judgment.

CONCLUSION

The judgment should be reversed.

Respectfully submitted,

Daniel Woofter
Counsel of Record
Kevin K. Russell
RUSSELL & WOOFTER LLC
1701 Pennsylvania
Avenue NW, Suite 200
Washington, DC 20006
(202) 240-8433
dw@russellwoofter.com

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APPENDIX

App.1

LIST OF AMICI CURIAE

Fair and Just Prosecution,
a Project of the Tides Center

Law Enforcement Action Partnership

Diana Becton

District Attorney, Contra Costa County,
California;
Former Judge, Contra Costa County Superior
Court, California

Buta Biberaj

Former Commonwealth's Attorney, Loudoun
County, Virginia

Chesa Boudin

Former District Attorney, City and County of
San Francisco, California

Bobbe J. Bridge

Former Justice, Washington Supreme Court

John Choi

County Attorney, Ramsey County (St. Paul),
Minnesota

Kara Davis

District Attorney, Wasco County, Oregon

Parisa Dehghani-Tafti

Commonwealth's Attorney, Arlington County
and the City of Falls Church, Virginia

Aramis Donell

Former State Attorney, Ninth Judicial Circuit
(Orange & Osceola Counties), Florida

App.2

Mark Dupree

District Attorney, Wyandotte County (Kansas City), Kansas

Ramin Fatehi

Commonwealth's Attorney, City of Norfolk, Virginia

Jay Fisher

Former Assistant Attorney General, State of Colorado

Neill Franklin (Ret.)

Former Executive Director, Law Enforcement Action Partnership;
Former Lieutenant Colonel, Commander of Education and Training Lieutenant, Baltimore Police Department;
Former Major, Maryland State Police

Leonard Frieling

Former Judge, City of Lafayette Municipal Court (Denver), Colorado

Royal Furgeson (Ret.)

Former Judge, U.S. District Court, Western District of Texas

Gil Garcetti

Former District Attorney, Los Angeles County, California

Stan Garnett

Former District Attorney, 20th Judicial District (Boulder), Colorado

Sarah F. George

State's Attorney, Chittenden County (Burlington), Vermont

App.3

Nancy Gertner

Former Senior Judge, U.S. District Court,
District of Massachusetts

Diane Goldstein (Ret.)

Former Lieutenant, Redondo Beach Police
Department, Redondo Beach, California

Jim Hingeley

Commonwealth's Attorney, Albemarle County,
Virginia

Joseph Iniguez

Former Chief Deputy District Attorney, Los
Angeles County, California

Michael Jackson

Former District Attorney, 4th Judicial Circuit,
Alabama

Lawrence S. Krasner

District Attorney, Philadelphia, Pennsylvania

Brian Leininger

Former Assistant District Attorney, 29th
Judicial District (Kansas City), Kansas

Mary Helen Maynard (Ret.)

Former County Justice Court Judge, Santa Cruz
County (Nogales), Arizona;
Former County Superior Court Judge, Santa
Cruz County (Nogales), Arizona

Gordon McAllister (Ret.)

Former District Court Judge, Tulsa, Oklahoma

Beth McCann

Former District Attorney, 2nd Judicial District
(Denver), Colorado

App.4

Charmaine McGuffey

Sheriff, Hamilton County, Ohio

Amy Padden

District Attorney, 18th Judicial District,
Colorado

Peggy Quince

Former Chief Justice, Florida Supreme Court;
Former Judge, Second District Court of Appeal,
Florida

Karl Racine

Former Attorney General, District of Columbia

Ira Reiner

Former District Attorney, Los Angeles County,
California;
Former City Attorney, Los Angeles, California

Eric Rinehart

State's Attorney, Lake County, Illinois

Jeff Rosen

District Attorney, Santa Clara County,
California

Carol Siemon

Former Prosecuting Attorney, Ingham County
(Lansing), Michigan

Eric Sparr

District Attorney, Winnebago County, Wisconsin

Matthew Van Houten

District Attorney, Tompkins County, New York

Allison Watson

Former Assistant District Attorney, 13th
Judicial District (Knoxville), Tennessee