

No. 25-7608

IN THE
SUPREME COURT OF THE UNITED STATES

JACOB JUSTICE STEPHEN,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

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

BRIEF IN RESPONSE

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QUESTION PRESENTED

More than half a century ago, this Court held that Florida’s use of six-person juries satisfies the Sixth Amendment. *Williams v. Florida*, 399 U.S. 78, 86 (1970). After examining the history and purpose of the right to trial by jury, the Court concluded that the framers enshrined no 12-juror requirement in the Constitution, even though most founding-era juries consisted of 12 persons. Relying on *Williams*, Florida and five other states continue to use fewer than 12 jurors in at least some criminal trials. In Florida, where all noncapital crimes are tried before six-member juries, roughly 5,000 criminal convictions are currently pending on direct appeal.

As in *Kian v. Florida*, No. 25-6623, 2026 WL 1718018 (June 15, 2026) (cert. granted), the question presented is whether the Court should overrule *Williams* and hold that the Sixth Amendment requires the use of 12-person juries in serious criminal cases.

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STATEMENT OF THE CASE

1. In 1877, Florida began using six-person juries to try noncapital criminal defendants. *See* Act of February 17, 1877, ch. 3010, § 6, 1877 Fla. Laws 54. That same year, the Florida Supreme Court held that the use of six-person juries neither “destroy[ed] [n]or infring[ed] the right of trial by jury.” *Gibson v. State*, 16 Fla. 291, 300 (1877). Ninety years later, this Court opened another avenue to challenge the validity of Florida’s six-person juries, holding that states are bound by the jury-trial guarantee in the Sixth Amendment to the federal Constitution. *See Duncan v. Louisiana*, 391 U.S. 145, 149 (1968). But just two years after that, this Court concluded that six-person juries satisfy that guarantee. *Williams v. Florida*, 399 U.S. 78, 86 (1970). For nearly as long as states have had a Sixth Amendment duty to provide criminal jury trials, this Court’s message to the people of Florida has been clear: the jury structure that they have settled on for a century and a half fulfills that duty. Unsurprisingly then, Florida has continued its longstanding practice of using six-person juries in trials of noncapital offenses. *See* Fla. Stat. § 913.10.

2. Petitioner Jacob Stephen was tried for attempted first degree murder and possession of a firearm by a prohibited person. R. 20-21; Tr. 15, 468. Because these crimes are not punishable by death, the trial court empaneled a six-person jury as dictated by Florida law. *See* Fla. Stat. § 913.10.

The evidence at trial revealed that after closing time at a crowded local bar, a “brawl” ensued in the parking lot between at least a dozen people—including Stephen. Tr. 26-27, 32-33, 55, 81, 84. An onlooking

bar patron, Jonathan Kranker, observed the fistfight but saw no person using any weapons. Tr. 84. After a few minutes, the affray dissipated. Tr. 84. Gunshots rang out a minute later and Kranker began frantically running around calling out for his friends and his brother. Tr. 84-85.

As Kranker attempted to walk back towards the building, a person jumped out of the driver's seat of a car and shot the unarmed Kranker three times. Tr. 82, 85-86, 106. As Kranker detailed: "I got shot on my right arm, my right thigh, um, through the base of my penis, which cut my urethra like a scissor and the bullet ended up in my left thigh and I guess my pinkie got grazed too, my right pinkie." Tr. 87; R. 615-27. The projectile could not be removed but Kranker required surgery, could not walk for two weeks, and had a catheter for three months. Tr. 88-89.

Other bar patrons in the parking lot observed Stephen shoot into the air and identified Stephen as Kranker's shooter. Tr. 58-61, 101-06.

Presented with this evidence, the jury returned unanimous guilty verdicts on both counts and also found that Stephen used or actually possessed a firearm, discharged a firearm, and caused great bodily harm. *See* R. 355-56; Tr. 458-59, 470.

3. Stephen appealed his convictions to Florida's Fourth District Court of Appeal, arguing—for the first time—that the Sixth Amendment entitled him to be tried by a 12-person jury because this Court abrogated *Williams* in *Ramos v. Louisiana*, 590 U.S. 83 (2020). The Fourth District affirmed his conviction without

discussion. Pet. App. 1a. Stephen then petitioned this Court for a writ of certiorari.

ARGUMENT

THE COURT SHOULD HOLD THIS PETITION PENDING DISPOSITION OF *KIAN*.

Stephen contends that this Court should review the Fourth District's summary decision and use it as a vehicle to overrule *Williams v. Florida*, 399 U.S. 78 (1970). On June 15, 2026, this Court granted review in *Kian v. Florida*, No. 25-6623, which presents the identical legal issue. Consequently, the Court should hold Stephen's petition in abeyance pending resolution of this same issue in *Kian* and then dispose of Stephen's petition accordingly.

CONCLUSION

The petition for a writ of certiorari should be held in abeyance pending this Court's resolution of *Kian*.

Respectfully submitted,

July 15, 2026

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