

26-5102

No. _____

ORIGINAL

FILED

MAY 04 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

Supreme Court of the United States

GUAVERA JOSEPH
Petitioner,

v.

FLORIDA,
Respondent.

—

On Petition For Writ Of Certiorari To The
Florida Fourth District Court Of Appeal

Guavera Joseph; DC# K22245
Petitioner, Pro Se
DeSoto Correctional Institution Annex
13617 Southeast Highway 70
Arcadia, Florida 34266-7800

QUESTION PRESENTED

- I. WHETHER THE STATE COURT, RELYING ON STATE LAWS AND STATUTES, VIOLATED THE FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION BY DENYING THE ACCUSED HIS DUE PROCESS RIGHTS TO CONFRONT THE WITNESS AGAINST HIM AND FAIR TRIAL?

LIST OF PARTIES

The list of all parties to this proceeding in this Court who judgment is the subject of this petition is provided below:

- Guavera Joseph; and
- The State of Florida

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[☒] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is unpublished.

JURISDICTION

The date on which the Fourth District Court of Appeal of Florida, the highest state court having jurisdiction, Per Curiam Affirmed Petitioner's direct appeal (without a written opinion) was December 23, 2025, for which Petitioner's timely motion for rehearing was denied on February 25, 2026. A copy of thoses unpublished decisions appear at Appendix A.

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution V Amendment, No person ... shall be deprived of life, liberty, or property, without due process of law

United States Constitution VI Amendment, In all criminal prosecutions, the accused shall enjoy the right to have compulsory process for obtaining witnesses in his favor,

United States Constitution Amendment XIV "No State shall make or enforce any law which [...] shall deprive any person of life, liberty, or property, without due process of law.

United States Code Annotated Title 28 §1257: "Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of the statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under the United States"

STATEMENT OF THE CASE

On November 7, 2021, Petitioner was arrested and charged with six counts of lewd or lascivious touching a minor over twelve (12) years old. Count I was for touching the alleged victim's breast. Count two was for touching the alleged victim's vagina. Count three was for touching the alleged victim's vagina. Count four was for touching the alleged victim's buttocks. Count five was for touching the alleged victim's buttocks. And count six was for allegedly touching the alleged victim's breast. Petitioner pled not guilty and exercised his right to a jury trial.

The prosecution's case against Petitioner hinged solely on its witnesses' credibility. At trial, other than the alleged victim, there were no eyewitnesses, no DNA evidence linking Petitioner to the alleged crimes, and no confession of guilt. Hence,. Petitioner's theory of defense was that he did not commit the alleged crimes and they were pure fabrication by the alleged victim's mother in order to gain full custody of the alleged victim. In support of his defense, during cross-examination of the alleged victim's mother, Petitioner sought to introduce evidence of the ongoing child custody battle between Petitioner and the alleged victim's mother over the alleged victim in order to show her motive to coach the alleged victim to fabricate those allegations against Petitioner. The prosecution objected and argued that they were "irrelevant" and "inappropriate" cross-examination of the alleged victim's mother about the ongoing child custody battle she had with Petitioner at the time those allegations were made. The trial court agreed with the prosecution and sustained the prosecution's objection.

At the conclusion of Petitioner's trial, the jury returned a guilty verdict on all counts as charged in the information. Petitioner timely appealed the judgment of conviction and sentence to the Fourth District Court of Appeal of Florida, raising the following claims:

- I. "The trial court's limitation on defense cross examination of the child's mother's motive for fabricating the charges because of a custody battle was reversible error."
- II. "The court erred in limiting the defense from presenting evidence of the custody proceeding which showed that the child's mother knew of the proceedings and had lied on the stand".
- III. "The trial court erred in conducting a pretrial hearing in [Petitioner]'s absence."
- IV. "The trial court erred in excluding reference to the lack of DNA testing results".
- V. "It was error to overrule [Petitioner]'s hearsay objections to the out of court statements of the child."
- VI. "The trial court's failure to conduct a *Richardson* inquiry over the State's introduction of a controlled call between the [Petitioner] and the child's mother was reversible error."
- VII. "[Petitioner]'s six convictions for a single criminal incident violate double jeopardy."
- VIII. "[Petitioner] was entitled to a twelve-person jury under the Sixth and Fourteenth Amendments to the United States Constitution, which he did not waive."

On December 23, 2025, without a written opinion, the state appellate court per curiam affirmed Petitioner's direct appeal. Subsequently, on January 28, 2026, Petitioner timely filed a motion for rehearing which the court denied on February 2, 2026. And this timely Petition for Writ of Certiorari ensues.

REASONS FOR GRANTING THE PETITION

This Honorable Court should grant certiorari review because Florida Statutes 90.612, as applied, is unconstitutional because it allows Florida courts, under the guise of trial courts' authority/discretion to limit cross-examination of a witness on pertinent matters, to circumvent the framers' intent that in every criminal prosecution the accused has the fundamental due process rights to confront the witness(es) against him and a fair trial. Further, the issue is important because this Court's inaction will allow Florida Courts and prosecutors to continue using this and similar tactics indefinitely with complete impunity, especially where no further review is contemplated beyond that of the highest state court.

I. Florida Statutes 90.612, as Applied, Is Unconstitutional

It is well established that, the Sixth Amendment to the United States Constitution as well as this Court's holding, in all criminal prosecution, the accused has the right "to be confronted with the witnesses against him". Further, the Framers of the Constitution did not intend to commit the futile act of giving to a defendant the right to confront the witness against him where state laws and statutes would allow state courts to infringe such right. *Washington v Texas*, 388 US 14, at 23; 18 L Ed 2d 1019, 87 S Ct 1920 (1967) ; see also *Delaware v. Van Arsdall*, 475 US 673; 106 S. Ct. 1431 (1986) ("The Confrontation Clause of the Sixth Amendment guarantees the right of an accused in a criminal prosecution 'to be confronted with the witnesses against him.' The right of confrontation, which is

secured for defendants in state as well as federal criminal proceedings, 'means more than being allowed to confront the witness physically.' Indeed, '[t]he main and essential purpose of confrontation is to secure for the opponent the opportunity of cross-examination.' Of particular relevance here, "[w]e have recognized that the exposure of a witness' motivation in testifying is a proper and important function of the constitutionally protected right of cross-examination." (internal citation omitted)). *Delaware v. Van Arsdall*, 475 US at 678-679; *Davis v. Alaska*, 415 U.S. 308; 94 S. Ct. 1105; 39 L. Ed. 2d 347 (1974) ("The Sixth Amendment to the Constitution guarantees the right of an accused in a criminal prosecution 'to be confronted with the witnesses against him. This right includes allowing the cross-examiner to impeach, i.e., discredit, the witness. A defendant's Confrontation Clause rights are satisfied when defense counsel is permitted to expose to the jury the facts from which the jurors . . . could appropriately draw inferences relating to the reliability of the witness.'). *Davis v. Alaska*, 415 U.S. at 315, 316, 318.

Here, relying on Florida Statutes 90.612, the prosecution objected and argued that the cross-examination of the alleged victim's mother concerning the ongoing child custody battle she had with Petitioner at the time those allegations were made were "irrelevant" and "inappropriate". The trial court sustained the prosecution's objection and imposed a blanket prohibition on trial counsel, prohibiting him from cross-examining the alleged victim's mother concerning the ongoing custody battle with Petitioner over the alleged victim, even for the sole purpose of showing the alleged victim's mother's motive to coach the alleged victim to fabricate those

malicious allegations against Petitioner. Clearly, such blanket prohibition hindered Petitioner's only means to expose the alleged victim's mother's motive to coach the alleged victim to fabricate those vicious allegations to the jury in support of his theory of defense, i.e., those vicious allegations were pure fabrications by the alleged victim's mother in order for her to gain full custody of the alleged victim. The fact that Petitioner testified at trial does not cure the infirmity because it was the trial court's erroneous decision to impose a blanket prohibition on Petitioner's counsel ability to cross-examine the alleged victim's mother that compelled Petitioner to testify.

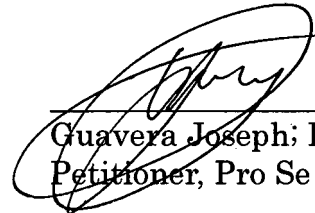
Under these circumstances, the prosecution was able to bootstrap its case against Petitioner and circumvent the framers' intent, i.e., in all criminal prosecution, the accused has the fundamental right "to be confronted with the witnesses against him", by relying on Florida laws and statutes to object to Petitioner exercising his fundamental right to cross-examine the alleged victim's mother concerning the ongoing custody battle with Petitioner over the alleged victim, for the sole purpose of showing the alleged victim's mother's motive to coach the alleged victim to fabricate those malicious allegations against Petitioner, which the trial court ultimately sustained, violating Petitioner's Fifth, Sixth, and Fourteenth Amendment rights to confront a witness against him, due process of law, and fair trial guaranteed by the United States Constitution. As such, Florida Statutes 90.612, as applied, is unconstitutional.

Therefore, as it stands, this Court should seize this unique and timely opportunity and set viable precedent to end this unconstitutional practice which violates the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution.

CONCLUSION

Wherefore, based on the foregoing, this petition for a writ of certiorari should be granted.

Respectfully submitted,



Guavera Joseph; DC# K22245
Petitioner, Pro Se

Date: June 21st, 2026