

No.

IN THE SUPREME COURT OF THE UNITED STATES

PRINCE ORGILL, PETITIONER,

v.

STATE OF FLORIDA, RESPONDENT.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

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DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

PRINCE ORGILL,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D2024-1145

[March 4, 2026]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Lawrence Mirman, Judge; L.T. Case No. 562020CF000944CXXXXX.

Daniel Eisinger, Public Defender, West Palm Beach, and Summer Hill, Assistant Public Defender, for appellant.

James Uthmeier, Attorney General, Tallahassee, and Rachael Kaiman, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Appellant appeals his conviction of second-degree murder with a firearm and sentence to life in prison. We write only to address appellant's claim challenging the written sentencing order. During the sentencing hearing, the trial court orally imposed \$963.60 for cost of prosecution and \$50 for cost of investigation, noting the costs were requested by the state without objection. However, the written final judgment imposed \$200 for cost of prosecution, \$1,013.60 for cost of investigation, and \$418 for court costs. Therefore, we remand to correct the scrivener's error in the cost of prosecution and cost of investigation. On the other issues raised, we affirm without further comment.

"Where a trial court's written sentencing order conflicts with the oral pronouncement, the oral pronouncement controls." *Wilson v. State*, 410 So. 3d 1211, 1211 (Fla. 4th DCA 2025) (citation omitted). As the state concedes, remand is required to correct the cost of prosecution to \$963.60 and the cost of investigation to \$50. Although appellant attempts to challenge the \$50 cost of investigation, appellant did not preserve this

issue because he did not object to the imposition of the cost of investigation. *Norman v. State*, 676 So. 2d 7, 8 (Fla. 4th DCA 1996). As to the \$418 court costs, appellant argues that the court costs assessed must be itemized with statutory authority. However, this court has “previously held that the trial court need not cite statutory authority for the imposition of costs.” *Chavis v. State*, 247 So. 3d 9, 10 (Fla. 4th DCA 2018). Thus, there is no basis for remand on the court costs.

Accordingly, we affirm appellant’s judgment and sentence but remand for correction of the scrivener’s error to reflect the \$963.60 for cost of prosecution and the \$50 for cost of investigation orally imposed. Appellant need not be present for the correction. See *Stephenson v. State*, 368 So. 3d 5, 6 (Fla. 4th DCA 2023).

Affirmed and remanded with instructions.

LEVINE, CONNER and SHAW, JJ., concur.

* * *

Not final until disposition of timely-filed motion for rehearing.

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401**

April 13, 2026

PRINCE ORGILL,
Appellant(s)
v.

STATE OF FLORIDA,
Appellee(s).

CASE NO. - 4D2024-1145
L.T. No. - 562020CF000944C;
562020CF001124A

BY ORDER OF THE COURT:

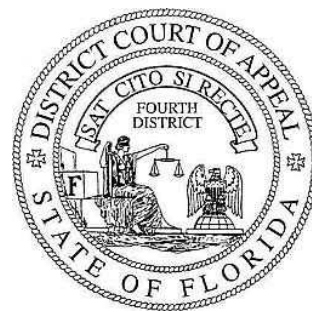
ORDERED that Appellant's March 19, 2026 "Motion for Rehearing and/or Certification" is denied.

Served:
Crim App WPB Attorney General
Summer Ivy Hill
Rachael Kaiman
Palm Beach Public Defender
St. Lucie Public Defender
Mary C Quintal Celidonio
St. Lucie State Attorney

HB

I HEREBY CERTIFY that the foregoing is a true copy of the court's order.


LONN WEISSBLUM, Clerk
Fourth District Court of Appeal
4D2024-1145 April 13, 2026



ISSUE V

APPELLANT WAS ENTITLED TO A TWELVE-
PERSON JURY UNDER THE SIXTH AND
FOURTEENTH AMENDMENTS AND HE DID
NOT WAIVE THAT RIGHT

Appellant had the constitutional right to a jury trial because his felony offense was punishable by more than six months in jail. *Baldwin v. New York*, 399 U.S. 66, 72-73 (1970). Appellant argues that the Sixth and Fourteenth Amendments guarantee the right to a twelve-person jury when the defendant is charged with an offense punishable by more than six months in jail. The standard of review of constitutional claims is de novo. *See A.B. v. Florida Dept. of Children & Family Services*, 901 So. 2d 324, 326 (Fla. 3d DCA 2005).

Appellant can raise this issue for the first time on appeal even though he did not object in the trial court because the question is whether he personally waived his constitutional right to a twelve-person jury, and he did not. *Wallace v. State*, 722 So. 2d 913, 914 (Fla. 2d DCA 1998); *Gamble v. State*, 696 So. 2d 420, 420 (Fla. 5th DCA 1997); *Blair v. State*, 698 So. 2d 1210, 1217-18 (Fla. 1997); *see also Johnson v. State*, 994 So. 2d 960, 963-64 (Fla. 2008) (holding that defendant must personally waive constitutional right to have

jury decide prior-convictions element in felony DUI case; defense counsel's stipulation that trial court act as factfinder is insufficient).

In short, the defendant himself or herself must agree to be tried by a jury with fewer jurors than constitutionally required. Appellant acknowledges this Court came to a different conclusion in *Albritton v. State*, 360 So. 3d 1145 (Fla. 4th DCA 2023). But this Court may have overlooked *Wallace*, *Gamble*, *Blair*, and *Johnson*.

Appellant acknowledges this Court rejected this issue because it was bound by Supreme Court precedent. *See Guzman v. State*, 350 So. 3d 72, 73 (Fla. 4th DCA 2022) (holding that this Court has “no authority to overrule . . . precedent from the United States Supreme Court that endorsed the use of a jury with only six members as constitutional” (quoting *Gonzalez v. State*, 982 So. 2d 77, 78 (Fla. 2d DCA 2008))). Nonetheless, Appellant maintains, like Justice Gorsuch, that “Florida does what the Constitution forbids.” *See Cunningham v. Florida*, 144 S. Ct. 1287, 1287 (2024) (Gorsuch, J., dissenting from the denial of certiorari). Appellant recognizes the Supreme Court denied the petition on May 28, 2024, however, the issue is still being raised for preservation pending additional review in the future.

The use of twelve-person juries is not a “historical accident.” *But see Williams v. Florida*, 399 U.S. 78, 89-90 (1970). *See also Gibson v. State*, 16 Fla. 291, 300 (1877) (holding that historically, the right to a jury trial meant “a jury, according to the common law, to be composed of twelve persons”).

When the Supreme Court gave Florida approval to continue its practice of using juries with less than twelve people in felony trials, the Court used a mode of constitutional interpretation that contravenes the original meaning of the Sixth Amendment: a functionalist approach. *See Williams*, 399 U.S. at 98-103. Specifically, in *Williams*, the Court reasoned that it could find “no indication in “the intent of the Framers’ of an explicit decision to equate the constitutional and common-law characteristics of the jury.” *Id.* at 99. According to the Court, “[t]he relevant inquiry . . . must be the function that the particular feature performs and its relation to the purposes of the jury trial.” *Id.* at 99-100. “Measured by th[at] standard,” the Court held, “the [twelve-person jury] requirement [for felony trials] cannot be regarded as an indispensable component of the Sixth Amendment,” because “neither currently available evidence nor theory suggests that the [twelve-person] jury

is necessarily more advantageous to the defendant than a jury composed of fewer members.” *Id.* at 100-02 (footnotes omitted).

In *Apodaca v. Oregon*, 406 U.S. 404 (1972), the Court held that nonunanimous jury verdicts in state criminal trials comported with the Sixth Amendment. *Id.* at 406. “Justice White, writing for the plurality, applied a *Williams*-style inquiry focusing upon ‘the function served by the jury in contemporary society’ and concluded that the requirement of unanimity was not ‘of constitutional stature.’” *Guzman*, 350 So. 3d at 73, 76 (Gross, J., concurring specially) (quoting *Apodaca*, 406 U.S. at 406, 410).

But then, in *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020), there was a shift. The Supreme Court held that the Sixth Amendment’s “trial by an impartial jury” requirement encompasses what the term “meant at the time of the Sixth Amendment’s adoption.”

Judge Gross, in a special concurrence in *Guzman*, noted that although the Supreme Court never explicitly questioned the *Williams* decision in *Ramos*, the Court’s functionalist reasoning in *Williams* is on shaky ground because of the Court’s decision in *Ramos*. See *Guzman*, 350 So. 3d at 78 Gross, J., concurring specially) (“It is a stretch to say that *Ramos* ‘effectively overruled’ *Williams*. Yet if

applied to the issue of jury size, the originalist analysis in *Ramos* would under-cut *Williams*'s functionalist underpinnings.”).

Appellant maintains that the Court's ruling in *Williams* is impossible to square with the Court's ruling in *Ramos*, and this Court should reverse Appellant's conviction by a six-person jury.

CONCLUSION

Based on the foregoing arguments and authorities, this Court should reverse and remand for a new trial before a twelve-person jury. In the alternative, Appellant requests a resentencing before a different judge.

CERTIFICATE OF SERVICE

I certify that this brief was electronically filed with the Court and a copy of it was served to Celia Terenzio, Assistant Attorney General, 1515 N. Flagler Drive, West Palm Beach, FL 33401 at CrimAppWPB@myfloridalegal.com on June 18, 2025.

/s/ Summer Hill

Attorney for Appellant

CERTIFICATE OF FONT SIZE

I certify this brief is submitted in Bookman Old Style 14-point font in compliance with Florida Appellate Rule 9.210(a)(2) and that