

No. 26-5103

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
FLORIDA DISTRICT COURT OF APPEAL,
FOURTH DISTRICT

RESPONSE TO PETITION

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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. The petitioner was tried for second degree murder with a firearm. R. 28–30; Tr. 33. The trial court empaneled a six-person jury as dictated by Florida law. *See* Fla. Stat. § 913.10; *State v. Hogan*, 451 So. 2d 844, 845 (Fla. 1984). Prior to jury selection petitioner did not file any objection to the jury size.

The evidence at trial revealed that during the victim’s attempted purchase of a stolen gun, while he was standing outside the front passenger door of a car and reaching in the car to take back money he had turned

over, the petitioner shot the victim from the back passenger seat. Tr. 338–40, 350–51, 358–61, 372, 379; Supp. R. 735–40, 745–48). During his sworn statement to police, the petitioner admitted he shot the victim but claimed it was an accident. Supp. R. 735–40, 745–48. The victim died from a gunshot wound to the torso. Tr. 739.

Presented with this evidence, the jury returned a verdict of guilty of second-degree murder, as charged in the information. R. 287; Tr. 883. The jury made specific findings that: (1) during the course of committing the offense, the petitioner personally carried, displayed, used, threatened to use, or attempted to use a firearm; (2) during the course of committing the offense, the petitioner discharged a firearm causing the death of the victim; and (3) the petitioner actually killed the victim. R. 287; Tr. 883–84. The trial court adjudicated the petitioner guilty and sentenced him to life, subject to a sentence review after 25 years, pursuant to section 921.1402(2)(b), Florida Statutes. (R 293–96, 303–04, 305–08).

3. The petitioner appealed his convictions to Florida’s Fourth District Court of Appeal, arguing in part 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), which held that the Sixth Amendment requires unanimous verdicts in state court as in federal court, overruling *Apodaca v. Oregon*, 406 U.S. 404 (1972). The Fourth District issued an opinion, and it reversed and remanded the case for the correction of a scrivener’s error involving two costs imposed as part of the sen-

tence. Pet. App. “A” at 2, 3. The Fourth District affirmed all other issues without further comment. Pet. App. 2. The petitioner then petitioned this Court for a writ of certiorari.

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

4. The petitioner contends that the Court should review the Fourth District’s decision and use it as a vehicle to overrule *Williams v. Florida*, 399 U.S. 78 (1970), which held that the Sixth Amendment permits six-person juries in criminal cases. 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 the petition in abeyance pending its resolution of this same issue in *Kian* and then dispose of it accordingly.

CONCLUSION

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

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