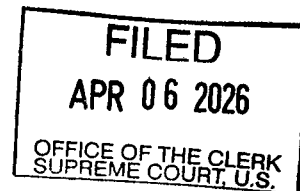


26-5110

No. _____

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

JAMEL CARLTON

— PETITIONER

(Your Name)

vs.

STATE OF NEW JERSEY

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

NEW JERSEY SUPREME COURT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JAMEL CARLTON

(Your Name)

600 CASS STREET

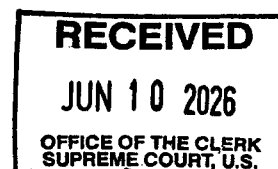
(Address)

TRENTON, NJ 08625

(City, State, Zip Code)

N/A

(Phone Number)



Question(s) Presented

- 1) Can the Erlinger error be subject to harmless error review and was harmless under the circumstances of this case, when N.J.S.A. 2C:44-3(a) is inconsistent with the principles announced in Erlinger and the Court calls upon the Legislature to revise this provision to comport with Erlinger's mandate?
- 2) Can the New Jersey State use the Fourth Degree New York State conviction (criminal possession of stolen property), as a substitute for a New Jersey State third degree crime because Trial counsel failed to object to it's application by the prosecutor when Mr. Carlton does not meet the criteria of N.J.S.A. 2C:44-3(a)?
- 3) Whether a criminal sentence that exceeds the statutory maximum authorized by a jury verdict, based on judicial fact-finding, violates the Sixth Amendment under Apprendi v. New Jersey, even where the state court deems the constitutional error harmless.

List of Parties

Jamel Carlton SBI# 000830352G

600 Cass Street

Trenton, N.J. 08625

State Of New Jersey

List of Directly Related Proceeding

Superior Court of New Jersey Atlantic County Judgment of Conviction & Order for Commitment:

Indictment # 20-12-00711-I

Superior Court of New Jersey Appellate Division:

Argued October 16, 2024

Decided November 27, 2024

Resubmitted December 19, 2024

Decided December 19, 2024

Docket # A-0532-22

New Jersey Supreme Court Decision:

Argued September 25, 2025

Decided February 23, 2026

Docket # (A-62/63-24), (090241)

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APPENDIX B SUPERIOR COURT OF NEW JERSEY APPELLATE DIVISION
DOCKET NO. A-0532-22

APPENDIX C SUPERIOR COURT OF NEW JERSEY, ATLANTIC COUNTY JUDGMENT
JUDGMENT OF CONVICTION & ORDER FOR COMMITMENT

Table of Authorities

Cases:

Apprendi v. New Jersey, 530 U.S. 466(2000)
Blakely v. Washington, 542 U.S. 296 (2004)
United States v Booker, 543 U.S. 220 (2005)
Erlinger v. United States, 602 U.S.____(2024)
Alleyne v. United States, 570 U.S. 99 (2013)

Statutes and Rules:

N.J.S.A. 2C:44-3(a)
ACCA, 18 U.S.C. § 9249(e)
N.J.S.A. 2A: 85-13 (1978)

Other Authorities:

U.S. Const. Amend.VI 28 U.S.C. § 1257(a)

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 **federal courts**:

The opinion of the United States court of appeals appears at Appendix D to the petition and is

☒ reported at ERLINGER 602 U.S. ____ (2024); or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ 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

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the APPELATE DIVISION court appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

1.

Citations of Official Reports of Opinions and Orders

**Superior Court of New Jersey Atlantic County Judgment of
Conviction & Order for Commitment:**

Indictment # 20-12-00711-I

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Docket # A-0532-22

New Jersey Supreme Court Decision:

Argued September 25, 2025

Decided February 23, 2026

Docket # (A-62/63-24), (090241)

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was FEBUARY 23,2026.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

Statement of the Basis for Jurisdiction

The date on which the highest State court decided this case was February 23, 2026.

No petition for rehearing was filed.

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

Constitutional and Statutory Provisions Involved

Fifth Amendment of U.S.C.A.

Sixth Amendment of U.S.C.A.

Fourteenth Amendment of U.S.C.A.

N.J.S.A. 2C:43-1(a)

N.J.S.A. 2C:43-6(a)

28 U.S.C. § 1257(a)

TREATIES

The Appellate Court noted in footnote #9 page 37 of opinion that the degree classifications under New York Law are different from the classifications set forth in N.J.S.A 2C:43-1(a) and N.J.S.A. 2C:43-6(a). That Mr. Carlton New York state fourth degree possession of stolen property committed in 2011 is not applicable to the N.J.S.A 2C:44-3(a) persistent offender.

Statement of the Case

Defendant Jamel Carlton appeals from his N.J. Supreme Court denial order and opinion for aggravated sexual assault, sexual assault, aggravated assault, burglary and criminal restraint against an Atlantic City casino hotel housekeeper. The Trial Judge sentence defendant as a persistent offender to a forty-two year prison term. Petitioner argues the Trial Judge erred in finding that he was a persistent offender under N.J.S.A. 2C:44-3(a) based on two prior New York felony convictions. One committed in 2006 and the other committed in 2011. Petitioner also argues the Trial Judge abused her discretion by electing to impose an Extended Term of Imprisonment after finding that petitioner was eligible for an enhanced sentence as a persistent offender. The Appellate Court noted in footnote #9 page 37 of the opinion, that the degree classifications under New York law are different from the classifications set forth in N.J.S.A. 2C-43-1(a) and N.J.S.A. 2C:43-6(a). That Mr. Carlton N.Y. state fourth degree possession of stolen property committed in 2011 is not applicable to the N.J.S.A. 2C:44-3(a) persistent offender. Petitioner was convicted in the State of New Jersey. At sentencing, the trial court imposed an enhanced sentence that exceeded the statutory maximum authorized by the jury's verdict alone. The enhancement was based on judicial fact-finding, not facts found by a jury beyond a reasonable doubt. Petitioner challenged the sentence on direct review, arguing that the enhancement violated the Sixth Amendment under *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and its progeny. The New

Jersey Supreme Court acknowledged that the sentencing procedure implicated Apprendi concerns because the sentence exceeded the jury-authorized maximum based on judge-found facts.

Despite recognizing the constitutional error, the court found the sentence under harmless error analysis, concluding that the outcome would have been the same absent the error.

This case presents a clean and final judgment from the highest state court, squarely presenting whether a concededly unconstitutional sentencing procedure may be held as harmless when it increases punishment beyond that authorized by the jury's verdict.

Reason for Granting the Writ

While Mr. Carlton's appeal was pending, the Supreme Court of the U.S. issued Erlinger. In Erlinger, the court reviewed the ACCA, 18 U.S.C. § 924(e), the federal persistent offender statute, which authorizes enhanced sentences upon proof that a defendant had three or more prior convictions for violent felonies or serious drug offenses occurring on separate occasions Id. at 825. The court was asked to determine whether the U.S. constitution permits a Judge to decide whether a defendant's past offenses were committed on separate prior occasions or whether the 5th and 6th Amendments require a unanimous jury to make that determination beyond a reasonable doubt Ibid. The ACCA did not expressly assign the fact-finding role to the court or jury. see 18 U.S.C. § 924(e)(1).

Relying on it's prior Jurisprudence in Apprendi v. New Jersey 530 U.S. 466 (2000), and Alleyne v. U.S. 570 U.S. 99 (2013). The Court reiterated "there is no doubt what the Constitution requires in these circumstances", Virtually 'any fact' that "increases the prescribed range of penalties to which a criminal defendant is exposed" Must be resolved by a unanimous Jury beyond a reasonable doubt(or freely admitted in a guilty plea)." Erlinger, 602 U.S. at 834 (alteration in original)(quoting, Apprendi, 530 U.S. at 490). The court determined that the requirement was necessary even where the inquiry is "straight forward" or the evidence is overwhelming to the Judge, finding that "there is no efficiency exception to the 5th and 6th Amendments." Id. at 842. Notably, the Majority was silent as

to whether harmless error review or reversible error applies to some or all Erlinger errors.

Following the Supreme Court's decision in Erlinger, Carlton argued, and the State agreed that his enhanced sentence was unconstitutional under Erlinger, given the fact that the Judge made the necessary findings concerning his persistent offender status rather than a jury.

I. THIS CASE PRESENTS AN IMPORTANT AND RECURRING QUESTION OF FEDERAL CONSTITUTIONAL LAW

This case presents a fundamental question concerning the Sixth Amendment right to a jury trial: whether a sentence that exceeds that statutory maximum authorized by a jury verdict may stand when based on judicial fact-finding deemed "harmless". This Court grants review where a state court decision conflicts with governing precedent or addresses an issue of exceptional national importance. Both are present here.

II. THE DECISION BELOW CONFLICTS WITH THIS COURT'S SIXTH AMENDMENT PRECEDENT

In Apprendi v. New Jersey, 530 U.S. 466 (2000), this Court held that any fact that increases the statutory maximum penalty must be submitted to a jury and proven beyond a reasonable doubt. That rule was reaffirmed in Blakely v. Washington, 542 U.S. 296 (2004), and applied to modern sentencing frameworks in United States v. Booker, 543 U.S. 220 (2005).

More recently, Erlinger v. United States, 602 U.S. ____ (2024), this Court reaffirmed the central role of the jury in determining facts that expose a defendant to increased punishment,

emphasizing that judicial fact-finding cannot substitute for for constitutionally required jury determination where such findings alter the permissible sentencing range.

The decision below departs from these precedents by permitting a sentence that exceeds the jury-authorized maximum to stand based on judicial fact-finding. The use of harmless error analysis in this context effectively nullifies the Sixth Amendment protection recognized in *Apprendi* and its progeny and reaffirmed in *Erlinger*.

III. THE APPLICATION OF HARMLESS ERROR TO APPRENDI VIOLATIONS CREATES A CONSTITUTIONAL EROSION AND WARRANTS CLARIFICATION

Allowing courts to uphold unconstitutional sentencing enhancements as "harmless" invites inconsistent application across jurisdictions and undermines the jury's central role as a constitutional safeguard. Lower courts have struggled with the scope of harmless error in *Apprendi*-type violations, leading to uncertainty and diminished uniformity in federal constitutional law.

Several courts have taken differing approaches to whether *Apprendi* and its progeny errors may be deemed harmless, particularly where judicial fact-finding increases a defendant's sentencing exposure. Some courts treat such violations as subject to harmless error review, while others recognize the structural nature of the error when the jury's role in determining facts essential to punishment is displaced.

This divergence in application creates a functional split among courts regarding the treatment of Sixth Amendment sentencing

violations. The lack of uniformity undermines the consistent application of federal constitutional protections and warrants this Court's intervention to resolve the conflict.

IV. THIS CASE IS AN IDEAL VEHICLE FOR REVIEW

This case clearly presents the constitutional question. The state's highest court acknowledged the constitutional issue, applied harmless error, and issued a final judgment. There are no procedural barriers to review, and the issue was properly preserved below.

V. THE QUESTION PRESENTED IS OF EXCEPTIONAL IMPORTANCE

The right to a jury trial is a cornerstone of the American criminal justice system. Permitting judicial fact-finding to increase punishment beyond what a jury authorize while excusing the violation as harmless undermines that constitutional guarantee. This issue affects sentencing practices nationwide and warrants this Court's review.

For these reasons, the petition should be granted.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

/S/JAMEL CARLTON

Date: APRIL 5, 2026