

No. 26-5549

IN THE
SUPREME COURT OF THE UNITED STATES

JOSEPH TRAEGER,
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. Petitioner Joseph Traeger was tried for three counts: (1) second-degree murder for the killing of his wife; (2) tampering with evidence; and (3) giving false information to a law enforcement officer. R. 44-45, 252-254; Tr. 815. 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). Jury selection ensued and Traeger’s counsel questioned the venire panel extensively and participated in jury selection, exercising cause and

peremptory challenges to various prospective jurors the petitioner deemed undesirable. Tr. 23-784. Traeger objected to one potential juror (Juror Number 12) because English was not her first language and the defense felt that she had difficulty understanding and communicating in English. Tr. 774. The prosecutor requested a race-neutral and gender-neutral reason for the strike as the juror was employed as a registered nurse and was highly educated with post-bachelor education. Tr. 774. Also, the prosecutor did not detect any communication issues. Tr. 774. The trial court found that the petitioner's proffered reason was not genuine and denied the defense's peremptory strike of Juror Number 12. Tr. 775. Traeger personally affirmed that he had no other challenges for cause to the remaining jurors. Tr. 778. The only peremptory strike Traeger desired to use for the remaining jury panel was as to Juror Number 12. Tr. 778-779. The only basis for Traeger not accepting the jury panel was due to the trial court's disallowance of the peremptory strike of Juror Number 12. Tr. 779. Traeger never requested a twelve-person jury or objected to a six-person jury. Tr. 1-2951.

The evidence at trial revealed that Jeneen Catanzaro, Traeger's estranged wife, disappeared from her home one morning after he came by and she was never seen again. The evidence showed that Catanzaro lived an ordered, stable life where she had frequent and regular contact with family and friends which suddenly stopped without explanation. Tr. 835, 836, 838-839, 861, 1148-1150, 2277. Catanzaro had been married to Traeger for about ten years. Tr. 840. The month before she disappeared, she told Traeger

to leave the home because she was upset with him over financial issues. Tr. 839, 861, 936, 940-941, 2277. Catanzaro was the sole owner of the home. Tr. 861.

The evidence showed Catanzaro went to the gym almost daily and had scheduled her gym classes for the entire week. Tr. 845, 846, 962. She also had regular appointments at her doctor to receive treatment for a chronic condition, plus plans to celebrate a close friend's recent birthday. Tr. 845, 846, 918-920. On the day she disappeared, Catanzaro was supposed to pick up a car with her father that her father had fully paid for. Tr. 837, 847, 850, 852. After Traeger appeared at her home early one morning, she did not appear for any of her scheduled appointments, never answered her phone, and was never seen or heard from again.

Surveillance video showed that Catanzaro left her gym around 6:30 p.m. on November 27, 2018, and returned home about 20 minutes later. Tr. 1218-1223, 1561-1562. The evidence showed that Catanzaro was not seen by anyone, except Traeger, after that point.

Traeger stated, and surveillance video corroborated, that he arrived at Catanzaro's home on November 28, 2018, a little after 8 a.m. Tr. 1566-1568. Surveillance video also showed that a short time later a person moved the trash can from the curb in front of Catanzaro's home back to the garage and then returned the can to the curb a short time later. Tr. 1570-1571. Thereafter, Traeger had possession of Catanzaro's vehicle, bank cards, and checks, and remained in the home even though Catanzaro had kicked him out of the home the month before and was

very upset over their financial situation. Tr. 1029-1036.

Surveillance video showed that Traeger moved his vehicle to a nearby neighborhood around 12:30 a.m. on November 29, 2018 (to avoid the repo man) but did not corroborate his statement that Catanzaro returned home about that same time. Tr. 1571-1574; State Exhibit 14.

Traeger waited four days to report Catanzaro missing. Tr. 1000. During this time, he drove her car, used her debit card, forged her checks, and gambled at casinos. Tr. 1029-1032, 2424-2428; R 742.

Thereafter, Traeger gave inconsistent statements to the police. Traeger first told the police that he did not know what happened to his wife. Tr. 977. Traeger indicated that he had moved out about a month before but had recently moved back into the home. Tr. 1012-1014. He said he last saw Catanzaro at home on the morning of November 29, 2018. Tr. 1027-1028.

Several days later, Traeger told the police that Catanzaro had allowed him back in the home and, after he took a shower, he came downstairs to find her collapsed on the floor and blood everywhere. Tr. 2119-2120. He then got a couple of trash bags from the garage and put her in the trash can. *Id.* He went outside, brought the trash can into the garage, carried her to the garage, put her in the trash can, and then took the can back outside. Tr. 2121. The evidence showed that the garbage was collected at about 12:17 p.m. and transported to the collection site where it was later incinerated. Tr. 1568, 1787, 1790-1795.

A couple of days after that, Traeger confessed to killing Catanzaro by stabbing her in the back of the head with a kitchen knife and then disposing of her body in the trash can. Tr. 2135-2136, 2203-2206. The day he returned home, a Wednesday, was trash pick-up day and the trash can was already at the curb when he arrived. Tr. 2011, 2014. Traeger knew that the garbage truck used a mechanical arm to lift the trash can. Tr. 2216. In a recorded walk-through at the scene, Traeger demonstrated how he stabbed Catanzaro in the back of the head with a kitchen knife. Tr. 2239, 2251, 2566-2567; State Exhibit 36. Traeger also turned off Catanzaro's cell phone and threw it in a lake. Tr. 2222, 2224.

In jail calls with his mother and stepfather, Traeger stated that what happened to Catanzaro was "100%" his stepfather's fault, which belied any assertion that Catanzaro died from natural causes. Tr. 2320-2321, 2352.

Other evidence showed that on November 28, 2018, the day that Traeger showed up at Catanzaro's home, he pawned some of her jewelry. Tr. 2555-2558.

Presented with this evidence, the jury returned unanimous guilty verdicts on all three counts. *See* R. 252-254; Tr. 2923-2924.¹

3. The petitioner appealed his convictions to Florida's Fourth District Court of Appeal, arguing that *Williams* was incorrectly decided and contrary to

¹ The trial court granted a judgment of acquittal as to the evidence tampering charge. Tr. 2929.

the understanding of the Sixth Amendment at the time of the Founding. Pet. App. 3a. The Fourth District affirmed in a per curiam, summary decision. Pet. App. 1a. Traeger filed a motion for rehearing, for written opinion, and for certification, which was denied. Pet. Appx. 2a. Traeger then petitioned this Court for a writ of certiorari.

ARGUMENT

The Court should hold this petition pending disposition of *Kian*.

Traeger contends that the 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), 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*.

Respectfully submitted,

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