

No.

IN THE SUPREME COURT OF THE UNITED STATES

TREVANTE TURNER, *Petitioner*

v.

STATE OF FLORIDA, *Respondent*

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

PETITION FOR A WRIT OF CERTIORARI

Shawn P. Napier
Counsel of Record
Florida Bar No. 1054328
O'BRIEN HATFIELD, P.A.
511 West Bay Street, Third Floor, Suite
330
Tampa, Florida 33606
(813) 228-6989
spn@markjobrien.com
Counsel for Petitioner

QUESTION PRESENTED

Whether Petitioner was deprived of his right, under the Sixth and Fourteenth Amendments, to a trial by a twelve-person jury when he was charged with, and convicted of, serious felony offenses carrying sentences of up to life imprisonment by a jury of six.

This Court has already granted certiorari on the identical question in *Kian v. Florida*, No. 25-6623 (cert. granted June 15, 2026). This petition should be held pending the disposition of *Kian* and then disposed of as appropriate in light of that decision.

PARTIES TO THE PROCEEDING

The parties to the proceeding before the Court are as follows:

Petitioner, Trevante Turner, was a criminal defendant convicted and sentenced in Palm Beach County, Florida. He appealed to Florida's Fourth District Court of Appeal, which affirmed the judgment and sentence.

Respondent, State of Florida, prosecuted Petitioner and defended the judgment and sentence on appeal in Florida's Fourth District Court of Appeal.

RELATED PROCEEDINGS

The following proceedings are directly related to the above-captioned case:

Turner v. State, No. 4D25-98 (Fla. 4th DCA June 4, 2026) (per curiam).

State v. Turner, 50-20230-CF-002448, Fifteenth Judicial Circuit of Florida.

Kian v. Florida, No. 25-6623 (U.S.) (petition for certiorari granted June 15, 2026; case below *Kian v. State*, 421 So. 3d 439 (Fla. 4th DCA 2025)).

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OPINION BELOW

The decision of Florida's Fourth District Court of Appeal affirming Petitioner's judgment and sentences is unreported and was entered without a written opinion. *Turner v. State*, No. 4D25-98 (Fla. 4th DCA June 4, 2026). It is reprinted in the Appendix at App. 2a. The order of the Fourth District denying Petitioner's motion for leave to file supplemental briefing addressing this Court's grant of certiorari in *Kian v. Florida* is reprinted at App. 3a.

JURISDICTION

Florida's Fourth District Court of Appeal affirmed Petitioner's convictions and sentences on June 4, 2026. App. 2a. This Court then granted certiorari in *Kian v. Florida*, No. 25-6623 on June 15, 2026, and Petitioner sought leave in the Fourth District to file supplemental briefing addressing the effect of that grant on this case. The State opposed the request, and the Fourth District denied it. App. 3a.

The Florida Supreme Court is “a court of limited jurisdiction,” *Mallet v. State*, 280 So. 3d 1091, 1092 (Fla. 2019) (citation omitted), and has no jurisdiction to review a district court of appeal decision entered without a written opinion, like the one in the case at bar. *Jackson v. State*, 926 So. 2d 1262, 1266 (Fla. 2006). Hence, Petitioner could not seek review in that court. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Sixth Amendment provides: “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury”

Section 1 of the Fourteenth Amendment of the United States Constitution provides:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const. amend XIV, § 1.

Article I, section 22 of the Florida Constitution provides:

Trial by jury.—The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law.

Fla. Const, art. I, § 22.

Section 913.10, Florida Statutes, provides:

Number of jurors.—Twelve persons shall constitute a jury to try all capital cases, and six persons shall constitute a jury to try all other criminal cases.

§ 913.10, *Fla. Stat.* (2026).

STATEMENT OF THE CASE

Petitioner was charged by amended information with eight counts of sexual battery of a minor twelve years of age or older but less than sixteen years of age, while Petitioner was in a position of familial or custodial authority, *see* § 794.011(8), *Fla. Stat.*, and three counts of lewd or lascivious battery of a minor twelve years of age or older but less than sixteen years of age. *See* § 800.04(4), *Fla. Stat. App.* 4a.

Before trial, on February 17, 2024, Petitioner filed a written objection to trial by a six-person jury and a motion requesting a jury of twelve, asserting that a six-person jury would violate his rights under the Sixth and Fourteenth Amendments to the United States Constitution. The trial court denied the motion, and Petitioner was tried by a jury of six.

Following trial, the jury found Petitioner guilty as charged on Counts One through Four and Six through Eleven; on Count Five, the jury acquitted Petitioner of sexual battery but found him guilty of the lesser-included offense of lewd and lascivious molestation. Petitioner was sentenced to life imprisonment on Counts One through Four and Nine through Eleven, and to concurrent fifteen-year terms on Counts Six through Eight.

Petitioner timely appealed, and, as relevant here, argued to the Fourth District Court of Appeal that the denial of his motion for a twelve-person jury violated the Sixth and Fourteenth Amendments, citing *Williams v. Florida*, 399 U.S. 78 (1970), and *Ramos v. Louisiana*, 590 U.S. 83 (2020). The Fourth District affirmed Petitioner's convictions and sentences without a written opinion on June 4, 2026. *App.* 2a.

On June 15, 2026, this Court granted certiorari in *Kian v. Florida*, No. 25-6623, to decide whether the Sixth and Fourteenth Amendments guarantee a defendant charged with a serious felony the right to a jury of twelve. This is the same question Petitioner had already preserved and briefed below. Petitioner moved the Fourth District for leave to file supplemental briefing addressing the effect of that grant. The State opposed the motion, relying principally on *Rogers v. State*, 2026 WL 1862160 (Fla. 6th DCA June 29, 2026), which held that the consequences of a possible ruling in *Kian* are, for now, speculative. The Fourth District denied Petitioner's motion. App. 3a. That denial does not affect this Court's jurisdiction, or the fact that Petitioner squarely raised and preserved the twelve-person-jury question at trial and on direct appeal, well before *Kian* was ever filed.

REASONS FOR GRANTING THE PETITION

I. This Petition Presents the Identical Question This Court Has Already Agreed to Decide in *Kian*.

This Court's grant of certiorari in *Kian v. Florida*, No. 25-6623, confirms that the question presented here, *i.e.*, whether the Sixth and Fourteenth Amendments guarantee a defendant charged with a serious felony the right to trial by a jury of twelve, is a live and recurring question of federal constitutional law warranting this Court's review. Both are Florida defendants prosecuted under section 913.10's default six-person-jury rule, which applies to “all other criminal cases” besides capital cases. However, Petitioner specifically and timely invoked the Sixth and Fourteenth Amendments in seeking a twelve-person jury before his trial. Petitioner was overruled by the trial court based on *Williams v. Florida*, 399 U.S. 78 (1970). Petitioner then appealed the issue to the Fourth District Court of Appeal, and, just like *Kian*, Appellant was affirmed by a panel in the appellate court without opinion.

II. Petitioner's Case Is, if Anything, a Stronger Vehicle Than *Kian*'s for Deciding This Question.

The Question Presented in *Kian* and in this case turns in part on whether the defendant was convicted of a “serious felony.” Petitioner's case answers that question unambiguously. Petitioner stood convicted of eight counts of sexual battery of a minor while in a position of familial or custodial authority and three counts of lewd or lascivious battery of a minor and received sentences of life imprisonment on seven counts. There is no room to debate whether offenses carrying a maximum penalty of life imprisonment are “serious” within the meaning of this Court's Sixth Amendment

jurisprudence. By contrast, *Kian*'s own conviction, for practicing chiropractic medicine on a suspended license, a third-degree felony, sits closer to the margin of what might be called “serious.”

It bears emphasis that Florida law classifies Petitioner's offenses as “life felonies,” not “capital felonies,” which is a distinct term of art in Florida. *See* § 794.011(2), *Fla. Stat.*; *See also* § 921.1425, *Fla. Stat.* Because Petitioner's offenses were not “capital” in that the crimes were not punishable by death under Florida law due to the age of the complaining witness, section 913.10 assigned his trial to a jury of six rather than twelve, just as in like *Kian*. That a defendant facing mandatory life imprisonment on multiple counts was tried by only six jurors illustrates the stakes of the question presented: Florida's six-person-jury default is not confined to minor or regulatory offenses but reaches the most serious non-capital felonies in the Florida Criminal Code.

There are no preservation issues in this case. Petitioner's objection to a six-person jury and request for a jury of twelve were raised in writing before trial and renewed and briefed on direct appeal. App. 7a-9a. Petitioner's convictions were affirmed without opinion, which forecloses Florida Supreme Court review under *Mallet* and *Jackson* just as it foreclosed such review in *Kian*. This Court's jurisdiction under 28 U.S.C. § 1257(a) is accordingly secure. Nothing about the Fourth District's later denial of supplemental briefing changes that analysis because the appellate court addressed only whether the court whether it would accept additional briefing on an issue already raised and denied.

III. **Williams v. Florida Cannot Be Reconciled with Ramos v. Louisiana, and the Question Warrants This Court's Review.**

For more than a century before *Williams*, 399 U.S. 78 (1970), this Court treated a jury of twelve as an essential, constitutionally compelled feature of “trial by jury.” See *Thompson v. Utah*, 170 U.S. 343, 349–50 (1898) (the Sixth Amendment's use of the word “jury” incorporated the common-law understanding of a body “of twelve persons, neither more nor less”); *Maxwell v. Dow*, 176 U.S. 581, 586 (1900) (“there [could] be no doubt” that a twelve-member jury “was intended by the Sixth Amendment”); *Patton v. United States*, 281 U.S. 276, 288 (1930) (jury trial's “essential elements” include a jury “consist[ing] of twelve men, neither more nor less”); *Duncan v. Louisiana*, 391 U.S. 145, 151–52 (1968) (jury trial “had been in existence for several centuries and carried impressive credentials traced by many to Magna Carta,” including the requirement of twelve jurors).

In *Williams v. Florida*, 399 U.S. 78 (1970), this Court departed from that line of authority, holding that a six-person jury did not violate the Sixth Amendment. The Court acknowledged that the Framers likely expected a jury of twelve, *id.* at 98–99, but concluded that “purely historical considerations” were not dispositive and that the “function” of the jury, providing “commonsense judgment” through “community participation,” could be performed as well by six jurors as by twelve. *Id.* at 99–102.

This Court's later decision in *Ramos v. Louisiana*, 590 U.S. 83 (2020), undermines the functionalist premise on which *Williams* rests. *Ramos* held that the Sixth Amendment's “trial by an impartial jury” guarantee requires a unanimous verdict, because that is what the guarantee “meant at the time of the Sixth

Amendment's adoption.” *Id.* at 90. In reaching that conclusion, *Ramos* overruled *Apodaca v. Oregon*, 406 U.S. 404 (1972), faulting it for “subject[ing] the ancient guarantee of a unanimous jury verdict to its own functionalist assessment,” *Ramos*, 590 U.S. at 100, and explaining that it is not this Court's role to “distinguish between the historic features of common law jury trials that (we think) serve ‘important enough’ functions to migrate silently into the Sixth Amendment and those that don't.” *Id.* at 98. That reasoning applies with equal force to jury size: when the People enshrined the jury-trial right in the Constitution, they did not attach a rider permitting future courts to resize it based on contemporary cost-saving concerns.

Even accepting *Williams's* functionalist methodology on its own terms, its empirical premises have not held up. This Court itself recognized as much only eight years after *Williams*, in *Ballew v. Georgia*, 435 U.S. 223 (1978), which held that a five-person jury violates the Sixth Amendment based on research showing that smaller juries deliberate less effectively, *id.* at 233, produce less consistent verdicts, *id.* at 234, and are less representative of minority groups in the community, *id.* at 236–37. Moreover, the *Ballew* Court “admit[ted]” that it “d[id] not pretend to discern a clear line between six members and five,” effectively acknowledging that the studies it relied on also cast doubt on the effectiveness of the six-member jury. *Id.* at 239; *see also, Id.* at 245-46 (Powell, J., concurring) (agreeing that five-member juries are unconstitutional, while acknowledging that the “line between five- and six-member juries is difficult to justify”).

Subsequent scholarship has reached the same conclusion with respect to six-person juries specifically. *See, e.g.,* Smith & Saks, *The Case for Overturning Williams v. Florida and the Six-Person Jury*, 60 Fla. L. Rev. 441 (2008); Shamena Anwar et al., *The Impact of Jury Race in Criminal Trials*, 127 Q.J. Econ. 1017, 1049 (2012) (larger juries “substantially reduce the variability of . . . trial outcomes”).

Florida's own jury-of-six rule moreover did not arise in a vacuum. As Justice Gorsuch has observed, “[d]uring the Jim Crow era, some States restricted the size of juries . . . as part of a deliberate and systematic effort to suppress minority voices in public affairs.” *Khorrami v. Arizona*, 143 S. Ct. 22, 27 (2022) (Gorsuch, J., dissenting from denial of certiorari). Petitioner acknowledges, as Justice Gorsuch has, that motive can be difficult to prove with certainty at this historical distance; but the timing and context of section 913.10's predecessor are themselves probative, and this Court has previously credited similar histories in assessing the constitutional pedigree of jury practices adopted during the same era. *See Ramos*, 590 U.S. at 126–27 (Kavanaugh, J., concurring).

Justice Gorsuch has twice dissented from this Court's denial of certiorari on this precise question, once in a case arising from the same Florida statute at issue here. *Cunningham v. Florida*, 144 S. Ct. 1287 (2024) (Gorsuch, J., dissenting from denial of certiorari); *Khorrami*, 143 S. Ct. at 27 (Gorsuch, J., dissenting from denial of certiorari). This Court's grant of certiorari in *Kian* confirms that the question is now ripe for plenary resolution.

IV. At a Minimum, This Petition Should Be Held Pending This Court's Disposition of Kian.

Because *Kian* squarely presents the question on which this Court has granted review, and because Petitioner's case cannot be finally resolved without knowing whether *Williams* survives *Ramos*, the orderly course is for this Court to hold this petition pending its decision in *Kian*. and then to grant, vacate, and remand for further consideration in light of that decision, or to grant plenary review if warranted by any variance between the two cases' presentations of the question.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted, or, in the alternative, held pending the disposition of *Kian v. Florida*, No. 25-6623, and then disposed of as appropriate in light of that decision.

Respectfully submitted,

SHAWN P. NAPIER

Counsel of Record

Florida Bar No. 1054328

O'BRIEN HATFIELD, P.A.

511 West Bay Street, Suite 330

Tampa, Florida 33606

(813) 228-6989

spn@markjobrien.com

Counsel for Petitioner

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