No. 26-5896

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
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 Trevante Turner was tried for six counts of sexual battery of a child in a position of familial of custodial authority, and three counts of lewd or lascivious molestation. R. 232-234. 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). Pre-trial, defense counsel objected to a jury of six people, moved for a twelve-person jury, and renewed such objection at the end of jury selection. R. 141-149; Tr. 251.

E.L. was a teenage boy who lived with his family; including his brother's husband Turner. Tr. 311, 340, 402-03, 440. E.L. considered Turner as a brother-figure, which Turner developed by contributing to the communal home, teaching E.L. to drive, and being a confidant for E.L.'s maturing sexuality. Tr. 302-03, 317, 340, 355, 405-407, 442.

One day, E.L. was with Turner at the community pool. Turner began "glaz[ing] his hand over" E.L.'s shorts and buttocks. Tr. 306-307. E.L. also saw Turner's penis outside of his shorts under the water and Turner "playing with himself in that moment." Tr. 307. While alone, after getting out of the pool, Turner again "proceeded to play[] with himself …." Tr. 308. "He pulled down his shorts … to the point where his penis was out." Tr. 309. "[H]e was touching along with my bathing suit again and … proceeded to lubricate my butthole with his saliva, and then tried to put his penis inside me." Tr. 309.

In several incidents, Turner went into E.L.'s personal bedroom late at night, pulled down E.L.'s shorts, exposed E.L.'s penis, and "started to play" with E.L.'s penis. Tr. 312-314. During one of these incidents, Turner was nude under a robe and put his penis in E.L.'s mouth. Tr. 314-315. "[A]fterwards, he started to play with himself and eventually ejaculated on my carpet." Tr. 315. Turner then gave E.L. oral sex. Tr. 315.

A final encounter occurred in the family garage where Turner was "playing with himself" and directing E.L. to "play with" himself. Tr. 323. Turner eventually wet his own fingers and used them to "lubricate[]" E.L.'s anus. Tr. 323. "[H]e told me to turn

around, and I -- I told him … I didn't want to do that. And he proceeded to have me facing the opposite of him, and he puts his penis inside me." Tr. 323. Turner then penetrated E.L.'s anus. Tr. 324. Turner ejaculated. Tr. 325. Turner then gave E.L. oral sex "while licking his fingers again to lubricate his own butthole." Tr. 325.

E.L.'s mother caught them in the act. Tr. 410. Turner exclaimed: "[E.L.] was inside of me." Tr. 410. After police began attempting to apprehend Turner, he threatened to commit suicide interspersed with admissions to his conduct. Tr. 661-666. E.L. spoke with a mental health counselor in a recorded interview and detailed these incidents in conformity with what was presented at trial. Tr. 483, 510-518.

Presented with this evidence, the jury returned unanimous guilty verdicts on five counts of sexual battery of a child in a position of familial of custodial authority, and all three counts of lewd or lascivious molestation as charged in the information. *See* R. 310-316. The jury convicted for one sexual battery charge as a lesser included offense of lewd or lascivious battery. *See* R. 313.

3. Turner appealed his convictions to Florida's Fourth District Court of Appeal, arguing that *Williams* was "impossible to square with the Supreme Court's ruling" in *Ramos v. Louisiana*, 590 U.S. 83 (2020), in interpreting the Sixth Amendment. Pet. App. 7a-9a. The Fourth District affirmed in a *per curiam*, summary decision. Pet. App. 2a. Turner's "motion to file supplemental brief" was denied. Pet. Appx. 3a. Turner then petitioned this Court for a writ of certiorari.

ARGUMENT

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

Turner 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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