

No.

IN THE SUPREME COURT OF THE UNITED STATES

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DARNELL LEE RICHARDSON, PETITIONER

v.

STATE OF FLORIDA, RESPONDENT.

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

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**PETITION FOR A WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED

1. Were Petitioner's Fifth, Sixth, and Fourteenth Amendment rights violated when he was subjected to a mandatory life sentence based on the trial court's finding, rather than a jury finding, that his past offenses were committed within three years of his release from prison?

2. Were Petitioner's Fifth, Sixth, and Fourteenth Amendment rights violated when he was subjected to an enhanced mandatory minimum sentence based on a finding of a fact by preponderance of the evidence rather than beyond a reasonable doubt?

## RELATED PROCEEDINGS

*Richardson v. State*, No. 6D2024-2451 (Fla. 6th District Court of Appeal)

Judgment entered on May 26, 2026; rehearing denied June 29, 2026.

*State of Florida v. Darnell Lee Richardson*, No. CF22-006789-XX (Tenth

Judicial Circuit Court of Florida) Judgment entered on April 24, 2023.

## PARTIES TO THE PROCEEDING

The parties to the proceedings are:

Petitioner, Darnell Lee Richardson, was a criminal defendant convicted and sentenced in Polk County, Florida. He appealed to Florida's Second District Court of Appeal, which affirmed the judgment and sentence.

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

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**PETITION FOR A WRIT OF CERTIORARI**

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Darnell Lee Richardson respectfully petitions for a writ of certiorari to review the judgment in this case of the Sixth District Court of Appeal of Florida.

## OPINION BELOW

The opinion of Florida's Sixth District Court of Appeal is not yet reported by West, but is available on the District Court's website as well as Google Scholar and is represented in the appendix. A2.

## JURISDICTION

Florida's Sixth District Court of Appeal denied Richardson's appeal on May 26, 2026, and then denied his motion for rehearing, motion to certify a question of great public importance, and motion for written opinion on June 29, 2026. A2, 8. The Florida Supreme Court is "a court of limited jurisdiction". *Mallet v. State*, 280 So. 3d 1091 at 1092 (Fla. 2019) (citation omitted). The court has no jurisdiction to review a district court of appeal decision entered without written opinion, like the one in the case at bar. *Jackson v. State*, 926 So. 2d 1262 at 1266 (Fla. 2006). This Court has jurisdiction under 28 U.S.C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS

The Fifth Amendment of the United States Constitution provides: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

The Sixth Amendment of the United States Constitution provides: “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.”

The Fourteenth Amendment of the United States Constitution provides: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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.”

Florida Statute 775.082(9)(a)1 provides “‘Prison releasee reoffender’ means any defendant who commits, or attempts to commit...

b. Murder...

q. Burglary of a dwelling or burglary of an occupied structure...

within 3 years after being released from a state correctional facility operated by the Department of Corrections or a private vendor, a county detention facility following incarceration for an offense for which the sentence pronounced was a prison sentence, or a correctional institution of another state, the District of Columbia, the

United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.

Florida Statute 775.082(9)(a)3 provides “If the state attorney determines that a defendant is a prison releasee reoffender as defined in subparagraph 1., the state attorney may seek to have the court sentence the defendant as a prison releasee reoffender. Upon proof from the state attorney that establishes by a preponderance of the evidence that a defendant is a prison releasee reoffender as defined in this section, such defendant is not eligible for sentencing under the sentencing guidelines and must be sentenced as follows:

- a. For a felony punishable by life, by a term of imprisonment for life”

## STATEMENT OF THE CASE

Petitioner, Darnell Lee Richardson, was sentenced to die in prison after being convicted of attempted murder in the first degree with a weapon, burglary of a structure or conveyance with an assault or battery while armed with a weapon, and battery. A9-14. Under Florida's Prison Releasee Reoffender statute, Richardson's sentence was enhanced to mandatory life in prison when the trial judge, not the jury, found that the crimes had been committed within three years of his release from prison. A30-31. The statute requires only a finding of the fact necessary for enhancement by a preponderance of the evidence. Richardson raised the unconstitutional nature of a court finding facts for sentence enhancement and a requirement that those facts only be proven by the preponderance of the evidence in a motion to correct sentencing error which was denied. A15-24. Richardson appealed to Florida's Sixth District Court of Appeal. Relying on *Erlinger v. United States*, 144 S. Ct. 1840 (2024), he argued that his sentence could not be enhanced under the Prison Releasee Reoffender statute without a jury finding as to whether the crimes occurred within three years of his release from prison and that a finding beyond a reasonable doubt was required. A25-29. The District Court rejected his arguments without explanation, issuing a per curiam affirmed decision. A2. The Sixth District Court of Appeal denied Mr. Richardson's Motion to Certify a Question of Great Public Importance which would have allowed the Florida Supreme Court to review the issue. A8. The Sixth District Court of Appeal is the state court of last resort for this case.

## REASONS FOR GRANTING THE PETITION

### INTRODUCTION

The courts of Florida continue to permit sentence enhancements when judges, rather than juries, make factual findings by a preponderance of evidence, rather than beyond a reasonable doubt even after explicit instruction in *Erlinger v. United States*, 144 S. Ct. 1840 (2024) that these practices are Constitutionally prohibited. The appellate courts of Florida have made it clear they will continue to permit these unconstitutional prohibitions unless this Court instructs them directly to stop. The Petitioner now respectfully requests this Court make clear to the courts of Florida that the practices used to impose mandatory life sentences in his case are not permitted under the Fifth and Sixth Amendments.

#### I. THE FINDING OF A FACT NECESSARY FOR AN ENHANCED SENTENCE MUST BE MADE BY A JURY

This Court made it clear in *Erlinger v. United States*, 144 S. Ct. 1840 (2024) that every fact necessary to enhance a sentence, with the exception of a mere conviction of a particular crime, must be found by a jury. Florida's Prison Releasee Reoffender (PRR) statute, Florida Statute 775.082, requires a minimum mandatory life sentence for either of the two felonies Mr. Richardson was found guilty of if either of those offenses were committed within three years of the defendant's release from prison. The statute has no requirement for why the defendant was in prison, only that there is a recency determination between the date of release and the date of the new offense. This required fact finding goes beyond "the job of

finding the fact of a prior conviction” which *Erlinger* confirmed is the sole fact trial court judges are permitted to find for sentencing enhancements. *Id.* at 1853.

A Florida District Court of appeal issued a decision that created a binding precedent on all Florida trial courts that it is Constitutional to make the factual findings for the PRR enhancement without a jury. *Simmons v. State*, 332 So. 3d 1129 (Fla. 5th DCA 2022). Despite this Court being explicit in *Erlinger* that such findings require a jury determination, Florida courts have continued to affirm *Simmons*. See *Denson v. State*, 401 So.3d 633 (Fla. 5th DCA 2025); *Turnage v. State*, 411 So. 3d 517 (Fla. 5th DCA 2025). The 5th DCA has indicated it will not recede from its holding in *Simmons* and follow *Erlinger* until this Court intervenes. In a concurrence, Judge Eisnaugle explained, “Given the United States Supreme Court's now long-standing and clear Sixth Amendment jurisprudence, this Court has no authority to expand, or otherwise invent, an exception to the rule announced in *Apprendi*. Therefore, were I not bound by *Simmons*, I would conclude that [the defendant's] PRR sentence violates the Sixth Amendment and would remand for the trial court to conduct a harmless error analysis.” *Denson v. State*, 401 So.3d 633 at 638 (Fla. 5th DCA 2025).

Florida courts instruct trial courts to make findings necessary to impose a mandatory minimum sentence in knowing disregard of *Erlinger*.

## II. THE FINDING OF A FACT NECESSARY FOR AN ENHANCED SENTENCE MUST BE FOUND BEYOND A REASONABLE DOUBT

Florida's PRR statute is unconstitutional on its face. Florida Statute 775.082 requires a trial court to impose a minimum mandatory sentence when a trial court makes a finding of fact based on a preponderance of the evidence. In order to impose the minimum mandatory sentence under the statute there must be a finding that the defendant was released from prison within three years of the new offense. In *Erlinger* this court held not only that facts necessary for enhanced sentences must be found by a jury, they must be found beyond a reasonable doubt. *Erlinger* at 1852.

In *Robinson v. State*, 337 So. 3d 1275 at 1276 (Fla. 2nd DCA 2022) the court created a binding precedent on all Florida trial courts in holding that the necessary facts to enhance a sentence under the PRR statute do not need to be found beyond a reasonable doubt. Even after *Erlinger*, the court specifically cited this part of the opinion in its citation opinion of *Kinard v. State*, 410 So. 3d 1239 (Fla. 2nd DCA 2025).

Florida courts permit findings necessary to impose a mandatory minimum sentence to be made based on a preponderance of the evidence despite the clear prohibition by *Erlinger*.

## CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

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