No.

IN THE SUPREME COURT OF THE UNITED STATES

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JONATHAN KING, PETITIONER,

v.

STATE OF FLORIDA, RESPONDENT.

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

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# PETITION FOR A WRIT OF CERTIORARI

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## QUESTION PRESENTED

Whether Petitioner was deprived of his right, under the Sixth and Fourteenth Amendments, to a trial by a 12-person jury when the defendant is charged with a serious felony?

In *Kian v. Florida*, No. 25-6623, the Court has granted certiorari on the identical question. This case should at least be held pending resolution of that case.

## PARTIES TO THE PROCEEDING BELOW

In the court whose judgment is sought be reviewed, the parties were:

Jonathan King
State of Florida

## RELATED PROCEEDINGS

Seventeenth Judicial Circuit of Florida:
*State v. King*, 19-10942CF10A (September 12, 2024).

Fourth District Court of Appeal of Florida:
*King v. State*, 4D2024–2384 (June 11, 2026).

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# PETITION FOR A WRIT OF CERTIORARI

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Jonathan King respectfully petitions for a writ of certiorari to review the judgment of the Fourth District Court of Appeal of Florida in this case.

## OPINION BELOW

The decision of Florida's Fourth District Court of Appeal is reported along with its denial of rehearing as *King v. State*, 436 So. 3d 1132 (Fla. 4th DCA 2026). Copies of the decision and the order denying rehearing are in the appendix. 1a, 2a.

## JURISDICTION

The petition seeks review of the decision of Florida's Fourth District Court of Appeal dated June 11, 2026, 1a, for which Petitioner's timely motion for rehearing, written opinion, and certification was denied on July 23, 2026. 2a.

The Florida Supreme Court is "a court of limited jurisdiction," *Mallet v. State*, 280 So. 3d 1091, 1092 (Fla. 2019) (citation omitted). It "lacks jurisdiction to review per curiam decisions of the several district courts of appeal of this state rendered without opinion, regardless of whether they are accompanied by a dissenting or concurring opinion." *Jenkins v. State*, 385 So. 2d 1356, 1359 (Fla. 1980).

Hence, because the district court of appeal affirmed Petitioner's convictions without opinion, he could not seek state supreme court review of the district court's decision. This Court has jurisdiction under 28 U.S.C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS

The Sixth Amendment:

> 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:

> … . 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.

Article I, section 22 of the Florida Constitution:

> 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.

Section 913.10, Florida Statutes:

> 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.

## STATEMENT OF THE CASE

Petitioner Jonathan King was charged by amended information with: aggravated battery with discharge of a firearm causing great bodily harm (count one); attempted robbery of money with a firearm or other deadly weapon (count two); aggravated battery "with a deadly weapon, to wit: a firearm" (count three); and tampering with an electronic monitoring device (count four). R 690–92.

A caller identifying himself as Jim Lewis called for a taxi. When the driver arrived a man who was coughing into something entered the taxi and asked to be taken to a nearby ATM. T 670–72. The driver could not really see his face. T 671.

The man threatened the driver with a gun and at some point struck the driver. T 672–674. The driver was asked at trial if the man demanded anything from him, and he replied: "No. As I drove up, I guess something activated the camera. Usually, it's a movement. Then he climbed into the front, hit me in the lips, split my lip with the butt of the gun — climbed into the front passenger seat. He still had his face covered because there's a camera right there." T 674. At some point the man asked to be taken home, the

taxi hit a curb and got a flat tire, and the man ran away. T 674, 695. In his 911 call, the driver said he wasn't shot, T 714, but EMT personnel noticed his thigh had an exit wound. T 698.

A projectile and live rounds were found in the taxi. T 821–22.

DNA evidence linked Petitioner to a sample from the driver's wrist. T 1256.

A special assault team went to arrest Petitioner at his home and, after various efforts including use of a flash diversionary device and chemical agents, Petitioner was taken into custody. T 980–84. Petitioner had a court-ordered GPS ankle monitor. T 1046–47, R 1622–24. The monitor was found in the house, and photograph were introduced showing the strap was severed or broken. T 953, 983, R 1579–81.

A six-member jury found Petitioner guilty of all counts as charged. R 1483–88. The court entered judgment of guilt and imposed a sentence of 35 years with a 25 year mandatory minimum for the aggravated battery and concurrent terms for the other counts, R 1696–1707.

Petitioner filed an appeal to the Florida's Fourth District Court of Appeal. He argued among other things that he was deprived of

his right to a twelve-member jury in violation of the Sixth and Fourteenth Amendments. 3a–6a.

The court affirmed Petitioner's convictions and sentences without written opinion, 1a, and denied his motion for rehearing, issuance of written opinion, and certification. 2a.

## REASONS FOR GRANTING THE PETITION

### *WILLIAMS v. FLORIDA* SHOULD BE OVERRULED AND THE SIXTH AMENDMENT RIGHT TO A JURY OF TWELVE SHOULD BE RESTORED.

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

On its face, the Amendment does not define what is meant by a jury. It does not prescribe the number of jurors. It does not say their verdict must be unanimous, or even that a majority must concur with the verdict. It does not say jurors must be laymen.

Given the Amendment's spare wording and absolute silence about such questions, we have no option but to look to "the most likely public understanding of [this] particular provision at the time it was adopted." *McDonald v. City of Chicago, Ill.*, 561 U.S. 742, 828 (2010) (Thomas, J., concurring in part) (interpreting Second Amendment). Such "an approach grounded in history imposes limits on the judiciary that are more meaningful than any based on [an] abstract formula." *Obergefell v. Hodges*, 576 U.S. 644, 698 (2015) (Roberts, C.J., dissenting) (internal citation and quotation marks omitted). *See also Dobbs v. Jackson Women's Health Org.*,

597 U.S. 215, 239 (2022) (opinion of Alito, J., for the Court) ("Historical inquiries … are essential whenever we are asked to recognize a new component of the 'liberty' protected by the Due Process Clause because the term 'liberty' alone provides little guidance."); *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 321–27 (2023) (Sotomayor, J., dissenting) (surveying understanding of Fourteenth Amendment at the time of adoption); *Consumer Fin. Prot. Bureau v. Cmty. Fin. Services Ass'n of Am., Ltd.*, 601 U.S. 416, 442 (2024) (Kagan, J., concurring) ("Long settled and established practice may have great weight in interpreting constitutional provisions about the operation of government.") (internal quotation marks and citations omitted); *Gamble v. United States*, 587 U.S. 678, 741 (2019) (Gorsuch, J., dissenting) (surveying how term "same offence" in Double Jeopardy Clause was understood at time of adoption); *United States v. Rahimi*, 602 U.S. 680, 715 (2024) (Kavanaugh, J., concurring) ("The first and most important rule in constitutional interpretation is to heed the text—that is, the actual words of the Constitution—and to interpret that text according to its ordinary meaning as originally understood."); *id.* at 737 (Barrett, J., concurring) (stating that to

identify the scope of the Second Amendment "as it was originally understood … courts must examine the historical tradition of firearm regulation") (internal citations and quotation marks omitted); *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 319–29, text and n.3 (2023) (Jackson, J., dissenting) (interpreting Fourteenth Amendment in accordance with understanding that, when adopted, it "was intended to undo the effects of a world where laws systematically subordinated Black people and created a racial caste system").

As to the understanding of the jury trial right at the time of its adoption, we are on safe ground.

Throughout the Founding Era, it was understood that a criminal conviction required a verdict by a unanimous twelve-man jury:

> Yet the law of *England* hath afforded the best method of trial, that is possible, of this and all other matters of fact, namely by a jury of twelve men all concurring in the same judgment, by the testimony of witnesses *viva voce* in the presence of the judge and jury, and by the inspection and direction of the judge.

1 Matthew Hale, Pleas of the Crown 33 (1836 ed.); 3 Matthew Bacon, A New Abridgment of the Laws of England 234 (1768)

(stating petit jury must consist "of *twelve*, and can be neither more nor less"); 3 Blackstone, ch. 23 ("Of the Trial by Jury") ("it is the most transcendent privilege which any subject can be enjoy or wish for, that he cannot be affected in his property, his liberty or his person, but by the unanimous consent of twelve of his neighbours and equals"). *See Thompson v. State of Utah*, 170 U.S. 343, 350 (1898) (discussing historical background of Jury Trial Clause). The only constitutional alteration is that, via the Equal Protection Clause, eligibility has broadened, so that, for instance, women may not be barred from serving as jurors.

So far so good.

But in 1875, as Reconstruction was drawing to an end, the Jury Clause of Florida's 1868 constitution was amended to provide that the number of jurors "may be fixed by law." Fla. Const. art. VI, § 12 (amended 1875). *See Florida Fertilizer & Mfg. Co. v. Boswell*, 34 So. 241, 241 (Fla. 1903). The well-settled requirement of a jury of twelve continued in Florida until the Legislature enacted a law specifying a jury of six in Chapter 3010, section 6, Laws of Florida (1877). *See Gibson v. State*, 16 Fla. 291, 297–98 (1877); *Florida Fertilizer*, 34 So. at 241.

This jury-of-six provision was enacted on February 17, 1877 — less than a month after the last federal troops were withdrawn from Florida in January 1877. *See Gibson*, 16 Fla. 294 (1877), and Jerrell H. Shofner, *Reconstruction and Renewal, 1865–1877*, in *The History of Florida* 273 (Michael Gannon, ed., first paperback edition 2018) ("there were [no federal troops] in Florida after 23 January 1877").

This law was consistent with a common effort in the former Confederate states as they "restricted the size of juries and abandoned the demand for a unanimous verdict as part of a deliberate and systematic effort to suppress minority voices in public affairs." *Khorrami v. Arizona*, 598 U.S. ____ (2022) (Gorsuch, J., dissenting from denial of certiorari). *Cf. Ramos v. Louisiana*, 590 U.S. 83, 126–27 (2020) (Kavanaugh, J., concurring) (non-unanimity was enacted "as one pillar of a comprehensive and brutal program of racist Jim Crow measures against African-Americans, especially in voting and jury service."). Florida's jury of six is the child of the same historical context.

This relic of the Jim Crow era was upheld in *Williams v. Florida*, 399 U.S. 78 (1970), holding that trial by a jury of six does

not violate the Sixth Amendment.

*Williams* recognized that the Framers "may well" have had "the usual expectation" in drafting the Sixth Amendment "that the jury would consist of 12" members. *Id.*, 399 U.S. at 98–99. But the Court concluded that such "purely historical considerations" were not dispositive. *Id.* at 99. Rather, it focused on the "function" that the jury plays in the Constitution, concluding that the "essential feature" of a jury is it leaves justice to the "commonsense judgment of a group of laymen" and thus allows "guilt or innocence" to be determined via "community participation and [with] shared responsibility." *Id.* at 100–01. It wrote that "currently available evidence [and] theory" suggested that function could just as easily be performed with six jurors as with twelve. *Id.* at 101–102 & n.48. *Cf. Burch v. Louisiana*, 441 U.S. 130, 137 (1979) (acknowledging that *Williams* and its progeny "departed from the strictly historical requirements of jury trial").

Petitioner respectfully submits that the ahistorical, functionalist social science approach of *Williams* was erroneous as it is contrary to the understanding of the Founding Era that criminal defendants have the right to the unanimous verdict of a

jury of twelve.

Due to this erroneous ruling, Florida courts have uniformly rejected arguments that Florida's practice of trial by six-member juries should be revisited, and the state supreme court has refused to consider the matter. *See Guzman v. State*, 350 So. 3d 72 (Fla. 4th DCA 2022) (citing *Williams* and holding defendant was not entitled to twelve-member jury at trial for sexual battery on a child under age of twelve), *rev. denied* SC2022–1597 (Fla. June 6, 2023), *cert. denied* 144 S. Ct. 2595 (2024); *Brown v. State*, 359 So. 3d 408, 410 n.1 (Fla. 1st DCA 2023) (rejecting as "nearly frivolous" claim that defendant charged with armed robbery and kidnapping was entitled to trial by jury of twelve); *Serrano-Delgado v. State*, 392 So. 3d 251 (Fla. 2d DCA 2024) (citing *Williams* and holding defendant was not entitled to jury of twelve on charge of sexual battery on a child under age of twelve); *Kain v. State*, 393 So. 3d 786, 787 (Fla. 3d DCA 2024) ("Affirmed. *See Williams v. Florida*, 399 U.S. 78, 90 S.Ct. 1893, 26 L.Ed.2d 446 (1970) (holding Florida's use of six-member jury in non-capital cases does not violate the Sixth Amendment right to trial by jury)."); *Simpson v. State*, 368 So. 3d 513, 514 (Fla. 5th DCA 2023) (noting that panel was rejecting claim that

defendant charged with attempted murder was entitled to trial by a jury of twelve persons).

These decisions are binding on the trial courts of Florida. *See Pardo v. State*, 596 So. 2d 665, 666 (Fla. 1992) ("in the absence of interdistrict conflict, district court decisions bind all Florida trial courts"). Further, the state constitution and state law specifically authorize six-member juries in noncapital criminal cases. Fla. Const., art. I, § 22 ("The qualifications and the number of jurors, not fewer than six, shall be fixed by law."; § 913.10, Fla. Stat. ("Twelve persons shall constitute a jury to try all capital cases, and six persons shall constitute a jury to try all other criminal cases.").

So only this Court can undo the dilution of the Sixth Amendment wrought in *Williams*. Petitioner calls upon this Court to grant this petition, recede from *Williams*, restore the ancient right to a twelve-member jury, and reverse Petitioner's conviction.

## CONCLUSION

The petition for a writ of certiorari should be granted, or it should at least be held in abeyance pending the disposition of *Kian v. Florida*, No. 25-6623.

Respectfully submitted,

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