No. 26-5952

IN THE
SUPREME COURT OF THE UNITED STATES

JONATHAN KING,
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

JAMES UTHMEIER
Attorney General of Florida

CELIA TERENZIO
Bureau Chief, Criminal Appeals
Counsel of Record
DEBORAH G. KOENIG
Senior Assistant Attorney General

OFFICE OF THE ATTORNEY GENERAL
State of Florida
1515 N. Flagler Drive, Suite 900
West Palm Beach, FL 33401
Phone: (561) 837-5016
CrimAppWPB@myfloridalegal.com

Counsel for Respondent

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.

TABLE OF CONTENTS

QUESTION PRESENTED.....i
TABLE OF AUTHORITIES..... iii
STATEMENT OF THE CASE 1
ARGUMENT 3
THIS COURT SHOULD HOLD THE PETITION IN ABEYANCE PENDING THIS COURT'S RESOLUTION OF *KIAN V. FLORIDA*, CASE NO. 25-6623.....3
CONCLUSION 3

TABLE OF AUTHORITIES

Cases

Apodaca v. Oregon,
406 U.S. 404 (1972) 3
Duncan v. Louisiana,
391 U.S. 145 (1968) 1
Gibson v. State,
16 Fla. 291 (1877) 1
Kian v. Florida,
25-6623, 2026 WL 1718018 (June 15, 2026) ..... i, 3
Ramos v. Louisiana,
590 U.S. 83 (2020) 3
State v. Hogan,
451 So. 2d 844 (Fla. 1984) 1
Williams v. Florida,
399 U.S. 78 (1970) ..... i, 1, 3

Statutes

Act of February 17, 1877, ch. 3010, § 6,
1877 Fla. Laws 54 1
Fla. Stat. § 913.10 1

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 Jonathan King was tried for aggravated battery with a firearm causing great bodily harm, attempted robbery with a firearm, aggravated battery with a deadly weapon, and tampering with an electronic monitoring device. R. 690-91. 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). Once selected, petitioner's counsel accepted the jury as empaneled. Tr. 634.

The evidence at trial revealed that the victim responded to a request for a taxi and King entered the victim's cab. Tr. 671. King asked to be taken to two different ATMs. Tr. 672. When they arrived at the ATM, King told the victim if he did what King said, King would not shoot him. Tr. 672. King had a gun. Tr. 672. The victim told King he did not have anything. Tr. 673. He did not have his debit card. Tr. 707.

King climbed into the front seat of the cab and hit the victim in the lips with the butt of the gun. Tr. 674. The action triggered the in-car camera to start recording and King "freaked out" when he noticed the camera was recording. Tr. 674-75. On the recording, which cut in-and-out, the victim could be heard saying "I don't have anything." Tr. 686, 704.

The victim tried to find a police officer or a more populated area, but King was pulling on the steering wheel. Tr. 674. The victim stopped the car, and King told the victim to take him home. Tr. 674. King eventually exited without paying the cab fare. Tr. 694, 708. The victim testified that during the incident, his lip was injured, King bit him on the wrist, and he was shot in the leg. Tr. 695.

King was on an electronic monitor at the time. Tr. 901. When evidence was collected from his residence, the ankle monitor was recovered from the living room. Tr. 953. It appeared to have been tampered with. Tr. 1054.

Presented with this evidence, the jury returned unanimous guilty verdicts. *See* R. 1483-88; Tr. 1621-23, 1646.

3. The petitioner appealed his convictions to Florida's Fourth District Court of Appeal, arguing that the Sixth Amendment entitled him to be tried by a 12-person jury because this Court abrogated *Williams* in *Ramos v. Louisiana*, 590 U.S. 83 (2020), which held that the Sixth Amendment requires unanimous verdicts in state court as in federal court, overruling *Apodaca v. Oregon*, 406 U.S. 404 (1972). The Fourth District affirmed in a per curiam, summary decision. Pet. App. 1a. King then petitioned this Court for a writ of certiorari.

ARGUMENT

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

King 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,

JAMES UTHMEIER
Attorney General of

Florida

OFFICE OF THE
ATTORNEY GENERAL
State of Florida
1515 N. Flagler Drive,
Suite 900
West Palm Beach, FL
33401
Phone: (561) 837-5016
CrimAppWPB@
myfloridalegal.com

CELIA TERENZIO
Bureau Chief, Criminal Appeals
Counsel of Record
DEBORAH G. KOENIG
Senior Assistant Attorney General

Counsel for Respondent

November 3, 2026