No. 26-6052

IN THE SUPREME COURT OF THE UNITED STATES

TYAIWAN OUSLEY,
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,* 146 S.Ct. 2732 (2026) (mem.) (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*, 146 S.CT. 2732 (2026) (MEM.).....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, 146 S.Ct. 2732 (2026) (mem.) .....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 Tyaiwan Ousley was tried for written threats to kill or do bodily harm. R. 65-66. 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. 265-92.

The evidence at trial revealed that in June 2024 Ousley worked at a Dollar Tree in West Palm Beach, Florida. Tr. 342-44. On June 19, 2024, Dollar Tree ter-

minated his employment due to him getting into a verbal disagreement with a store manager. Tr. 360-61. On June 20, 2024, he went to work anyway despite having been terminated the previous day. Tr. 343-44. The store manager asked him to leave and told him to contact corporate for information about his employment. Tr. 345. The manager sent him a text message with the phone number of the corporate office and the name of the person in human resources he could contact. Tr. 346-47. Ousley replied to the manager's text message with the following threat:

> You Call That B**** And Tell Her To Call Me Eye Am Not Calling No More Now Everybody Want To Play With Me That's Ok Eye Will Start Eliminating All Of Y'all That's All Eye Know Y'all Plotted Against Me But Don't Worry Eye Will Get Y'all All You B****** Going To Die Bet On That 🔥🔥🔥🔥🔥🔥🔥🔥ASE

R. 305.

Presented with this evidence, the jury returned a unanimous guilty verdict. R. 130; Tr. 604-05.

3. The petitioner appealed his conviction 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. 2a. Ousley then petitioned this Court for a writ of certiorari.

ARGUMENT

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

Ousley 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,* 146 S.Ct. 2732 (2026) (mem.), 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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