No.

IN THE SUPREME COURT OF THE UNITED STATES

PATRICK T. BROCKMAN, PETITIONER,

v.

STATE OF FLORIDA, RESPONDENT.

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

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

DANIEL EISINGER
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DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

PATRICK T. BROCKMAN,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D2025-1192

[July 23, 2026]

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Howard Kelly Coates, Jr., Judge; L.T. Case No. 502022CF008532AXXXMB.

Daniel Eisinger, Public Defender, and Summer Ivy Hill, Assistant Public Defender, West Palm Beach, for appellant.

James Uthmeier, Attorney General, Tallahassee, and Zi Jin Peter Chan, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Affirmed.

CONNER, KLINGENSMITH, JJ., and SCHWAB, CHARLES A., Associate Judge, concur.

* * *

Not final until disposition of timely-filed motion for rehearing.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401

August 24, 2026

PATRICK T. BROCKMAN, Appellant(s), v. STATE OF FLORIDA, Appellee(s).	**CASE NO. - 4D2025-1192** L.T. No. - 50-2022-CF-008532-AXXX-MB

BY ORDER OF THE COURT:

ORDERED that Appellant's August 6, 2026 motion for rehearing, written opinion, certification, and/or to stay the mandate is denied.

Served:
Crim App WPB Attorney General
Zi Jin Peter Chan
Summer Ivy Hill

AM

I HEREBY CERTIFY that the foregoing is a true copy of the court's order.

Lonn Weissblum
4D2025-1192 August 24, 2026
LONN WEISSBLUM, Clerk
Fourth District Court of Appeal

ISSUE IV

APPELLANT WAS ENTITLED TO A TWELVE-PERSON JURY UNDER THE SIXTH AND FOURTEENTH AMENDMENTS AND HE DID NOT WAIVE THAT RIGHT

Appellant recognizes that Florida allows a jury of six in non-capital cases. Art. I, § 22, Fla. Const.; § 913.10, Fla. Stat. The Supreme Court held this does not violate the Sixth Amendment in *Williams v. Florida*, 399 U.S. 78 (1970). He submits, however, that *Williams* was incorrectly decided and is contrary to the understanding of the Sixth Amendment at the time of the Founding. *See Cunningham v. State*, 144 S. Ct. 1287–88 (2024) (Gorscuch, J., dissenting from denial of certiorari).

Appellant recognizes that this Court has rejected similar claims. *See, e.g.*, *Guzman v. State*, 350 So. 3d 72 (Fla. 4th DCA 2022), *rev. denied* SC2022–1597 (Fla. June 6, 2023), *cert. denied* No. 23–5173 (U.S. May 28, 2024). Nonetheless, he maintains that the correct view is set out in Justice Gorsuch's dissent in *Cunningham*. There are two cases currently pending in the United State Supreme Court raising this issue: *Parada v. U.S.,* No. 25-166 and *Minor v. Florida*, No. 24-

7489. The Court ordered the government to respond to the petition in *Parada* and it ordered the State to respond to the petition in *Minor*.

Here, the error is fundamental. Waiver of the constitutional right of trial by the proper number of jurors must be made personally by the defendant. *See Blair v. State*, 698 So. 2d 1210, 1217 (Fla. 1997) (finding valid defendant's agreement to verdict by five-member jury valid when made "in a colloquy at issue here, including a personal on-the-record waiver," and sufficient to pass muster under the federal and state constitutions," and his decision was made "toward the end of his trial, after having ample time to analyze the jury and assess the prosecution's case against him. He affirmatively chose to proceed with a reduced jury as opposed to a continuance or starting with another jury."). Further, section 913.10, Florida Statutes, is unconstitutional on its face. A defendant may raise the facial constitutionality of a statute for the first time on appeal. In *State v. Johnson*, 616 So. 2d 1 (Fla. 1993); *Mincey v. State*, 889 So. 2d 211, 212 (Fla. 4th DCA 2004).

The convictions and sentence should be reversed with instructions to afford Appellant a new trial.