No. 26-

IN THE

Supreme Court of the United States

WILLIAM THORNTON,

Petitioner,

v.

STATE OF MARYLAND,

Respondent.

On Petition for Writ of Certiorari to the Supreme Court of Maryland

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Sixth Amendment permits a court to close the courtroom to the entire public, over objection, for the bulk of jury deliberations and the jury's ultimate return of its verdict – including the trial court's giving an *Allen* charge – without findings that it considered every reasonable alternative to closure.

PARTIES TO THE PROCEEDING AND RULE 29.6 STATEMENT

Mr. Thornton is William Thornton, who was a respondent and appellant below.

Respondent is the State of Maryland, which was the respondent and cross-appellant below. Mr. Thornton's codefendant, James Dunbar, was a respondent below.

There are no corporate parties involved in this case.

RULE 14.1(B)(III) STATEMENT

This case arises from the following proceedings in the Circuit Court for Baltimore City, the Appellate Court of Maryland, and the Supreme Court of Maryland:

State v. *Thornton*, Nos. 119343014 & 119343016 (Cir. Ct. Balt. City) (jury verdict Dec. 6, 2022; sentence Oct. 12, 2023; motion for new trial denied Oct. 12, 2023).

Dunbar v. *State*, Nos. 119343014, 119343015, 119343016, 2025 WL 2027549 (Md. App. Ct. July 21, 2025) (reversing convictions on plain-error review and rejecting Mr. Thornton's public-trial claim).

State v. *Thornton*, 361 A.3d 321 (Md. 2026) (reversing in part, affirming in part, and remanding with instructions to affirm; motion for reconsideration granted in part and otherwise denied).

No other proceedings relate directly to this case.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
PARTIES TO THE PROCEEDING AND RULE 29.6 STATEMENT	ii
RULE 14.1(B)(III) STATEMENT	iii
TABLE OF CONTENTS	iv
TABLE OF AUTHORITIES	v
PETITION FOR A WRIT OF CERTIORARI	1
OPINIONS AND ORDERS BELOW	1
STATEMENT OF JURISDICTION	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	2
INTRODUCTION	2
STATEMENT OF THE CASE	5
REASONS FOR GRANTING THE PETITION	9
I. The Decision Below Contradicts *Presley* v. *Georgia* and Other Public Trial Right Jurisprudence from this Court	9
II. The Public Trial Right has Deep Historical Roots That Have Existed and Developed Since the Nation's Inception.	12
III. This Case is an Ideal Vehicle	13
CONCLUSION	16

TABLE OF AUTHORITIES

CASES Page

Abruquah v. *State*, 296 A.3d 961 (Md. 2023) 7

Dunbar v. *State*, Nos. 119343014, 119343015, 119343016, 2025 WL 2027549 (Md. App. Ct. July 21, 2025) 1

In re Oliver, 333 U.S. 257 (1948) 4, 12

Kelly v. *State*, 6 A.3d 396 (Md. 2010) 7

People v. *Hassen*, 351 P.3d 418 (Colo. 2015) 10

People v. *Martin*, 16 N.Y.3d 607 (N.Y. 2011) 10

Presley v. *Georgia*, 558 U.S. 209 (2010) 2, 3, 4, 9, 11

Press-Enter. Co. v. *Superior Ct. of Cal.*, 464 U.S. 501 (1984) 14, 15

Richmond Newspapers, Inc. v. *Virginia*, 448 U.S. 555 (1980) 12, 13

Smith v. *Titus*, 592 U.S. 1332 (2021) 10

State v. *Njonge*, 181 Wash. 2d 45 (2014) 10

State v. *Slota*, 862 N.W.2d 113 (S.D. 2015). 10

State v. *Smith*, 876 N.W.2d 310 (Minn. 2016) 10

State v. *Thornton*, 361 A.3d 321 (Md. 2026) 1

Thornton v. *Maryland*, No. 26A496 (U.S. Oct. 16, 2026) 2

Waller v. *Georgia*, 467 U.S. 39 (1984) 2, 4, 11

Weaver v. *Massachusetts*, 582 U.S. 286 (2017) 5, 14

TABLE OF AUTHORITIES—continued

	Page
CONSTITUTIONAL PROVISIONS	
U.S. Const. amend. VI	2
U.S. Const. amend. XIV, § 1	2
STATUTES	
28 U.S.C. § 1257(a)	2, 14

PETITION FOR A WRIT OF CERTIORARI

Mr. Thornton William Thornton respectfully petitions for a writ of certiorari to review the judgment of the Supreme Court of Maryland.

OPINIONS AND ORDERS BELOW

The opinion of the Supreme Court of Maryland is reported at *State* v. *Thornton*, 361 A.3d 321 (Md. 2026), and reproduced at Pet. App. 1a. The court's July 21, 2026 order granting in part and denying in part Mr. Thornton's motion for reconsideration, together with its updated opinion and judgment, is unreported and reproduced at Pet. App. 35a. The opinion of the Appellate Court of Maryland is unreported, *Dunbar* v. *State*, Nos. 119343014, 119343015, 119343016, 2025 WL 2027549 (Md. App. Ct. July 21, 2025), and reproduced at Pet. App. 37a. The Circuit Court for Baltimore City's rulings closing the courtroom and denying a new trial are unreported; the transcript of the closure ruling (T.12, Dec. 1, 2022) is reproduced at Pet. App. 118a.

STATEMENT OF JURISDICTION

The Supreme Court of Maryland issued its opinion on June 26, 2026. Pet. App. 1a. Mr. Thornton timely moved for reconsideration. On July 21, 2026, the court granted the motion "as to Mr. Thornton's contention that it is unnecessary to remand the case to the Appellate Court," denied it "otherwise," and amended its opinion and judgment to remand to the Appellate Court of Maryland with instructions to affirm. Pet. App. 35a. The petition was originally due October 19, 2026. On October 16, 2026, the Chief Justice extended the time to file this petition to and including November

20, 2026 (No. 26A496). This Court has jurisdiction under 28 U.S.C. § 1257(a). The Supreme Court of Maryland is the State's highest court, and its order on reconsideration directs the Appellate Court of Maryland only to affirm Mr. Thornton's convictions, leaving nothing further for the state courts to decide. Pet. App. 35a.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Sixth Amendment to the United States Constitution provides, in relevant part: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial …." U.S. Const. amend. VI.

Section 1 of the Fourteenth Amendment provides, in relevant part: "[N]or shall any State deprive any person of life, liberty, or property, without due process of law …." U.S. Const. amend. XIV, § 1.

INTRODUCTION

A trial court may close a courtroom over a defendant's objection only if it identifies an overriding interest, closes no more than that interest requires, considers reasonable alternatives, and makes contemporaneous findings adequate to support the closure. *Waller* v. *Georgia*, 467 U.S. 39, 48 (1984). In *Presley* v. *Georgia*, 558 U.S. 209 (2010) (per curiam), this Court made clear what should have been clear before; the trial court has a constitutional duty to consider alternatives or limitations to closure. That duty exists whether or not any party proposes an alternative or limitation. Trial courts "are obligated to take every reasonable measure to accommodate public attendance at criminal trials," and even when an overriding interest exists, "it [is] still incumbent upon [them] to consider all reasonable alternatives to closure." *Id*. at 214–16. This

Court summarily reversed the Georgia Supreme Court that had upheld a closure without that analysis.

Unfortunately, this case presents the same error. After the jury began deliberating in Mr. Thornton's murder trial, the trial court informed the parties that the father of codefendant Anthony Clark had spoken to a juror in the hallway outside the courtroom. That juror explained that the man, a childhood friend, had said "what's up" and identified himself as Clark's father. Pet. App. 123a. Another juror reported seeing Clark's father shake Juror 11's hand and make a passing remark that "didn't have to do with the case." *Id.* at 127a–28a. Only one other juror saw the exchange, and no other juror was told about it. *Id.* at 129a–132a, 151a–55a. All jurors told the court it would not affect their ability to be fair and impartial. *Id.* at 132a–133a. The court nonetheless immediately cleared the courtroom and closed it completely, including during an *Allen* charge and juror polling. The only exception was that certain of Mr. Thornton's family members were allowed in, but even then only for the reading of the verdict.

The defense objected at once and asked the court to consider excluding only Clark's father, the one person who had spoken to the juror. The court flatly refused. It made no on-the-record findings that it had considered that alternative or any other reasonable measure to accommodate public attendance, as *Presley*, 558 U.S. at 214–15, requires. Nothing in the record explains why excluding one known individual would not have protected the jury or shows that the court considered measures such as additional security or a limited-attendance order during the *Allen* charge that the trial court subsequently gave.

Three Justices of the Maryland Supreme Court dissented, explaining that the trial court "did not make

specific findings or explain why its complete closure of the courtroom during jury deliberations … was narrowly tailored," and that "no pattern among the three incidents is apparent from the record and the trial court did not identify one." Pet. App. 27a, 32a. Neither the majority nor the dissent cites *Presley*. Mr. Thornton, however, had cited and relied upon *Presley* in his opening brief, reply brief, and motion for reconsideration, yet the court's updated opinion still does not even mention it.

The Court should summarily reverse. The question is not whether the trial court had cause for concern. The question is whether a court may sustain a total closure without applying the framework this Court set out in *Waller* v. *Georgia*, 467 U.S. 39 (1984), and elaborated in *Presley* v. *Georgia*, 558 U.S. 209 (2010) (per curiam). The court below did not apply it, and the error is clear. In the alternative, the Court should grant plenary review.

The stakes extend beyond this case. The public-trial guarantee is "a safeguard against any attempt to employ our courts as instruments of persecution." *In re Oliver*, 333 U.S. 257, 270 (1948). When a defendant objects to a public-trial violation and raises it on direct review, he is generally entitled to automatic reversal without any showing of prejudice. See *Weaver* v. *Massachusetts*, 582 U.S. 286, 299 (2017). That a closure follows juror contact makes the requirement of findings more important, not less. This case is also a clean vehicle: Thornton objected contemporaneously, the court below resolved the claim on the merits under federal law, and the relevant facts are undisputed. Thornton is serving a sentence of life imprisonment plus eighteen years.

STATEMENT OF THE CASE

This case arises from the November 2019 shooting and death of Donnell Brockington on a Baltimore City street. Pet. App. 10a. Police pursued a vehicle that had left the scene until it crashed into a tree, and four of its occupants—Mr. Thornton, James Dunbar, Shamar Jerry, and Anthony Clark—were apprehended in or near the car. *Id.* DNA evidence linked each of the four to firearms recovered in connection with their arrest, and a firearms examiner testified that ammunition recovered from the scene and from the victim's body "were fired with" a Desert Eagle pistol found in the vehicle. *Id.*

The four men were tried jointly before a jury in the Circuit Court for Baltimore City. Pet. App. 10a. The trial began on November 10, 2022, and lasted approximately three weeks. *Id.* Three incidents involving people connected to the trial proceedings led to the courtroom closures at issue here. *Id.*

First, on the seventh day of trial, the prosecutor told the court that someone had photographed bench conferences and posted the images on Instagram with the hashtag "free dem boys." Pet. App. 11a. The photographs showed only the backs of the heads of counsel, the defendants, and the judge. *Id.* No juror or witness appeared in them, and, as the prosecutor acknowledged, a viewer "would not be able to tell who is up at the bench." *Id.* at 29a. The court responded with a warning that it would confiscate any phone used in the courtroom. *Id.* at 11a. Nothing in the record suggests that the conduct recurred.

Second, on the eleventh day of trial, the court was informed of "a disturbance between, amongst the families" and that two people had approached two trial spectators outside the courthouse. Pet. App. 29a. The

court's own account of the event was imprecise: it occurred outside the courthouse, it did not involve any jurors or witness, and the record reflects no further inquiry into it. *Id.* at 29a–30a.

Third, after closing arguments, a juror note reported that co-defendant Clark's father had approached Juror 11 in a courthouse hallway during the lunch recess. *Id.* at 12a. Juror 11 explained that the man, whom he recognized as a childhood friend he had not seen in at least fifteen years, "just said hi[]," and identified himself as Clark's father. *Id.* (alteration in original). Another juror recounted that the two shook hands and that the man said something like "I'm tired of this s[#$%]" before walking on. *Id.*

After this inquiry, the court ordered the courtroom closed, stating that the hallway encounter was now the third incident that had disturbed trial proceedings, and the court was "not … comfortable with the public being in this trial or observing it anymore." Pet. App. 12a (alteration in original). The court was not going to allow the public back until it was time to hear the verdict. *Id.* After that declaration, the court individually questioned all of the jurors about the incident, and all confirmed that they could remain fair and impartial. *Id.*

All four defendants objected. Pet. App. 12a. As an alternative to closure, they asked the court to exclude only the Mr. Clark's father, the person who had said hello to Juror 11. *Id.* The court overruled the objections and denied the defense motion for the mistrial. First, because the public had already seen the evidence. *Id.* Second, because the court had previously warned the gallery it would not tolerate any further disruption. *Id.* Third, because juror contact was "the highest form of disruption." *Id.*

The courtroom remained closed to the public for the remainder of the jury's deliberations, which spanned multiple days. Pet. App. 12a. During that time, the court answered several jury notes and, after the jury signaled difficulty, delivered a modified *Allen*-type charge urging continued deliberation. *Id.* at 13a. Before that charge was read, defendants renewed their "continued objection to the closing of the courtroom," but the court did not reconsider, and it delivered the *Allen* charge with no member of the public present. *Id.* at 31a.

For the return of the verdict, the court reopened the courtroom only partially, again over defense objection, and permitted the victim's family members and two family members of each defendant to sit in the courtroom. *Id.* The jury convicted Mr. Thornton of first-degree murder, conspiracy to commit murder, and related firearm offenses. *Id.* at 13a. He was sentenced to life imprisonment plus eighteen years. *Id.*

Mr. Thornton timely moved for a new trial arguing, *inter alia*, that the closures violated his Sixth Amendment right to a public trial. *Id.* The trial court denied the motion. *Id.* On appeal, the Appellate Court of Maryland rejected Mr. Thornton's Sixth Amendment claim, applying the three-factor test of *Kelly* v. *State*, 6 A.3d 396 (Md. 2010)—duration, significance of the proceedings, and scope—and holding that both the closure during deliberations and the verdict were de minimis, too trivial to implicate the Sixth Amendment. Pet. App. 14a.

The Appellate Court reversed Mr. Thornton's convictions on a separate state law evidentiary ground—that admission of the firearms examiner's unqualified testimony was plain error under *Abruquah* v. *State*, 296 A.3d 961 (Md. 2023). Pet. App. 13a–14a. The court remanded for a new trial. *Id.* at 14a.

The Supreme Court of Maryland granted the State's petition for review on the firearms evidentiary issue and Mr. Thornton's cross-petition on the public trial issue. *Id.* The court reversed on the firearms issue, holding that any error was not "clear or obvious." *Id.* at 15a.

On the public trial claim, the court affirmed the judgment of the Appellate Court but on different reasoning. *Id.* at 21a–22a. It adopted the *Kelly* framework as Maryland law but held that the closures here were not de minimis. *Id.* at 22a. The complete closure lasted multiple days, and the delivery of an *Allen* charge to a deliberating jury is "a matter of substantive consequence" whose occurrence behind closed doors is constitutionally significant. *Id.* at 23a.

The court held that the closures satisfied each requirement of *Waller*. *Id.* at 22a. It reasoned that the three incidents, taken together, "established a pattern of escalating misconduct" that justified closure. *Id.* at 25a. It acknowledged that only one incident occurred inside the courtroom and that Mr. Thornton's argument "has surface appeal," but concluded that the trial court's findings were adequate. *Id.* Having found no violation, the court declined to address Mr. Thornton's argument that a de minimis exception is irreconcilable with treating public trial violations as structural error. *Id.* at 26a. The court reasoned that a closure that satisfies *Waller* "is not a constitutional violation." *Id.*

Chief Justice Fader, joined by Justices Booth and Biran, agreed that the closures were not trivial but dissented from the court's *Waller* holding. Pet. App. 27a (Fader, C.J., concurring in part and dissenting in part). The dissent explained that the trial court never made the "findings specific enough" that *Waller* demands and never explained how a complete closure was "narrowly tailored." *Id.* at 31a.

The court remanded to the Appellate Court with instructions to affirm Mr. Thornton's convictions.

REASONS FOR GRANTING THE PETITION

I. The Decision Below Contradicts *Presley* v. *Georgia* and Other Public Trial Right Jurisprudence from this Court

In *Presley*, this Court unanimously declared that trial courts "are obligated to take every reasonable measure to accommodate public attendance at criminal trials." *Presley*, 558 U.S. at 215. The Court also held in *Presley* that the reasons for not being able to accommodate public attendance at criminal trial proceedings must be shown in the trial record in enough detail such that a reviewing court could determine whether the closure was proper. *Id.*

At Mr. Thornton's trial, defense counsel offered a potential avenue for accommodating public attendance for the balance of the trial (excluding Clark's father) but the trial court never considered it. Other alternatives were possible as well, including the exclusion of other members of Clark's family who might have also been familiar with Juror 11. Yet without entertaining the proposed alternative, or any others, the trial court shut the courtroom doors to all for the balance of jury deliberations which encompassed a number of days and included events that the Supreme Court of Maryland conceded were of significance. These actions constitute a clear violation of *Presley*.

The fact that the Supreme Court of Maryland did not even mention *Presley* is significant, despite Mr. Thornton's counsel having briefed it in opening and on reply and also in his motion for rehearing. It is not clear that states are abiding by, or even attending to, *Presley*'s

very specify protections of a constitutional right that belongs not just to criminal defendants but to the public at large. See *State* v. *Smith*, 876 N.W.2d 310 (Minn. 2016); *see also Cameron v. State*, No. PD-1427-13, 2016 WL 859173, at *1 (Tex. Crim. App. Mar. 2, 2016) (op. on reh'g) (defendant has burden to prove courtroom was actually closed). Five years ago, one member of this Court suggested, in dissent from the denial of review in the Minnesota case, that state and federal courts are in need of more guidance regarding the public trial right. *Smith* v. *Titus*, 592 U.S. 1332, 1333 n.1 (2021) (Sotomayor, J., dissenting from denial of certiorari). Still, the Maryland Supreme Court is not honoring, or even paying attention, to *Presley*, despite *Presley* have been briefed. *Presley*'s summary reversal posture does not lessen its value as precedent; if anything, its posture should draw more attention.

To be sure, some state courts are applying *Presley*.[1] But the application of *Presley* in those few cases does not portend further application and it certainly is not the trend. Meanwhile, federal and state courts are sanctioning courtroom closures that this Court would

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[1] *E.g., People* v. *Martin*, 16 N.Y.3d 607 (N.Y. 2011) (ejection of the defendant's father during voir dire proceedings without considering reasonable measures to accommodate his presence was a violation of *Presley*); *People* v. *Hassen*, 351 P.3d 418 (Colo. 2015) (closure for the testimony of undercover officers violated *Presley* when the court failed to consider reasonable alternatives); *State* v. *Njonge*, 181 Wash. 2d 546 (2014) (en banc) (no violation of *Presley* when the judge disallowed the filming of voir dire but did not exclude the presence of the media in the courtroom); *State* v. *Slota*, 862 N.W.2d 113 (S.D. 2015) (trial court made adequate findings in accord with *Presley* supporting closure for a child witness).

never allow. And the state court's failure, as in this case, to even address this Court's clear dictates in *Presley* cannot stand. Cf. *Nat'l Insts. of Health* v. *Am. Publ. Health Ass'n*, 145 S. Ct. 2658 (20225) (opinion of Gorsuch, J.) ("[u]nless we wish anarchy to prevail within the federal judicial system, a precedent of this Court must be followed by the lower federal courts no matter how misguided" (citation omitted)).

And the lower courts are not just flouting *Presley*. Other rulings from this Court have emphasized the importance of the public trial right. In *Richmond Newspapers, Inc.* v. *Virginia*, the Court explained that "[a]bsent an overriding interest articulated in findings, the trial of a criminal case must be open to the public." *Richmond Newspapers, Inc.* v. *Virginia*, 448 U.S. 555, 555 (1980). In *Waller* v. *Georgia,* this Court recognized what those overriding interests could include. More specifically, it explained that a public trial may be overridden in some cases by other rights or considerations "such as the defendant's right to a fair trial or the government's interest in inhibiting disclosure of sensitive information." *Waller*, 467 U.S. at 45.

Even so, the *Waller* Court specifically pointed out that in such cases the "the trial court *must* consider reasonable alternatives to closing the proceeding, and it *must* make findings adequate to support the closure." *Id.* at 48 (emphasis added). More specifically, the overriding interest must be more than protecting against the "generic risk of jurors overhearing prejudicial remarks" because "[i]f broad concerns of this sort were sufficient to override a defendant's constitutional right to a public trial, a court could exclude the public" from criminal trial proceedings "as a matter of course." *Presley*, 558 U.S. at 215. Again, in the present case,

there was no consideration of any reasonable alternatives to closing the courtroom from the public that was preserved in the trial record. Consequently, the closure of the courtroom was not adequately justified even under *Richmond Newspapers* and *Waller*.

II. The Public Trial Right Has Deep Historical Roots That Have Existed and Developed Since the Nation's Inception.

While the precise origins of the public-right guarantee in criminal proceedings are unclear, it can at least be traced back to the 11th century before the Norman conquest of England, where the practice evolved alongside the jury trial. *Richmond Newspapers,* 448 U.S. at 565. As such, it was an enduring part of the English common-law before the establishment of the American colonies. After the establishment of the colonies, the public trial right remained an integral part of the colonial judicial system. *Id.* at 568 (the idea that courts should be open to the public had been present in Pennsylvania and Massachusetts since the 17th century). The insistence on a public-trial right persisted at the nation's founding and creation of the Constitution as well. See*, e.g., Press-Enter. Co.*, 464 U.S. at 508 (attendance of the public was necessary at the trials of two of the British soldiers who were charged with murder in Boston after the "Boston Massacre").

The importance of the public-trial right involves its ability to curb the abuse of authority by giving the public the opportunity to examine the punitive proceedings that the government initiates. Providing "sunshine" from the public in attendance would help the jury appreciate the solemnity of their role. *In re Oliver*, 333 U.S. 257, 271 1948) ("Without publicity, all

other, checks are insufficient: in comparison of publicity, all other checks are of small account"). "The knowledge that every criminal trial is subject to contemporaneous review in the forum of public opinion is an effective restraint on possible abuse of judicial power." *Id*. at 270. The simple fact that criminal trial proceedings are open for anyone to attend lends credence to the idea that the procedures in place are fair because otherwise, any circumstances of unfairness would be noted and publicized by those in attendance at the proceedings. *Press-Enter. Co.,* 464 U.S. at 508. In this way, the public trial right serves not only as an assurance that criminal trial proceedings are conducted fairly but also as a mechanism through which to support public confidence in the judicial system.

III. This Case is an Ideal Vehicle.

This case presents the question cleanly. Mr. Thornton's Sixth Amendment claim was preserved at every stage and decided squarely on federal grounds. All four defendants objected when the trial court closed the courtroom and proposed the narrower alternative of excluding only the individual who had approached the juror. Pet. App. 351. They renewed their "continued objection to the closing of the courtroom" during deliberations immediately before the *Allen* charge was read. *Id*. There is no question that the period of closure was critical. *See Bollenbach v. United States*, 326 U.S. 607, 612-13 (1946) ("the wording of the trial judge's responses to the jury's inquiries [] assumed added significance [during] this critical stage of a criminal trial."). Mr. Thornton pressed the claim again in his timely motion for a new trial, before the Appellate Court, and in his cross-petition to the Supreme Court of Maryland. Pet App. 13a–14a.

The Maryland Supreme Court recognized that the claim "was preserved through contemporaneous objection" and conducted its "own independent constitutional appraisal of the record." Pet App. 14a. No waiver, forfeiture, or independent state ground stands in the way. The parties do not dispute what happened or what the trial court said, and both the majority and the dissent quoted the transcript at length. *Id.* at 11a–13a, 28a–33a.

The question is not insulated from review by state law. The Maryland Supreme Court held that the closures implicated the Sixth Amendment, rejecting the Appellate Court's conclusion that they were de minimis. Pet. App. 26a. As the court put it, "[w]e affirm under *Waller*, not under the de minimis exception." *Id.* The state law threshold inquiry therefore cannot support the judgment; it was resolved in Mr. Thornton's favor. What remains is a pure application of this Court's precedent.

The question is outcome-determinative. A violation of the public trial right is structural error, and when such a violation is preserved and raised on direct review, the defendant is generally entitled to relief without any showing of prejudice. See *Weaver*, 582 U.S. at 298–301. The court below acknowledged that if the closure fails *Waller*, Mr. Thornton—who is serving life imprisonment plus eighteen years—is entitled to a new trial. Pet. App. 13a.

The judgment below is final. 28 U.S.C. § 1257(a). The Supreme Court of Maryland is the state's highest court, and it remanded to the Appellate Court "with instructions to affirm" Mr. Thornton's convictions. *Id.* at 27a. Nothing remains for the state courts to decide. The separate evidentiary ruling below, which turned on Maryland's own precedent in *Abruquah*, concerned

a different claim and leaves the Sixth Amendment question untouched. *Id.* at 16a.

Finally, the decision below illustrates the problem in its starkest form. The trial court closed the courtroom in response to a single, known individual's friendly hallway encounter with a juror, even after every juror affirmed their impartiality, and the defense proposed excluding only that individual. Pet. App. 31a–32a. The majority upheld the closure only by supplying a "cumulative pattern" rationale that, as three Justices explained, the trial court never articulated, and the record does not reveal. *Id.* at 32a. Only this Court can decide whether a reviewing court may rescue a courtroom closure by supplying justifications the trial court never articulated, and this case presents that question clearly.

CONCLUSION

For the reasons articulated above, the Court should summarily reverse or, in the alternative, grant plenary review.

Respectfully submitted,

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