

A state legislature passed a statute providing that juries in criminal trials were to consist of 6 jurors, rather than 12, and that jury verdicts did not have to be unanimous but could be based on 5 votes out of 6 jurors.

A defendant was tried for murder. Over his objection, he was tried by a jury composed of 6 jurors. The jurors found him guilty by a vote of 5 to 1, and over the defendant's objection, the court entered a judgment of conviction, which was affirmed on appeal by the state's highest court.

The defendant seeks to overturn his conviction in a habeas corpus proceeding in federal court, claiming that the trial court violated his constitutional rights by allowing both a non-unanimous jury verdict and a jury composed of fewer than 12 members.

How is the federal court likely to rule in this action?

- A. It will set aside the conviction, because the 6-person jury verdict was not unanimous.
- B. It will set aside the conviction, because the jury was composed of fewer than 12 members.
- C. It will set aside the conviction, both because the jury was composed of fewer than 12 members and because the 6-person jury verdict was not unanimous.
- D. It will uphold the conviction.

## Explanation:

### Sixth Amendment right to jury trial

<b>Applies to serious crimes</b>	General rule – possible sentence of > 6 months' imprisonment (or actual sentence of > 6 months if no statutory maximum provided) Exception – sentence ≤ 6 months if additional penalties are so severe that legislature likely intended for crime to be serious
<b>Waiver</b>	Free, knowing & intelligent request for bench trial
<b>Composition</b>	Jury pool – fair cross section of community Impaneled jury – impartial & unbiased
<b>Size</b>	State court – at least 6 jury members Federal court – 12 jury members unless parties stipulate otherwise
<b>Unanimity</b>	Unanimous verdict required to convict

A petition for a **writ of habeas corpus** is generally used as a post-conviction remedy to collaterally attack an **unlawful imprisonment**. If the petitioner is incarcerated for a state conviction, the petition can only be filed in federal court if the petitioner has exhausted all state appellate remedies. The federal court will only grant the petition and set aside the conviction if the petitioner's incarceration violates the U.S. Constitution.

The Sixth Amendment **right to a jury trial** attaches to any criminal proceeding where the defendant could be sentenced to more than six months in prison. This right, applied to the states through the Fourteenth Amendment, requires that a jury (1) have **at least six members** and (2) reach a **unanimous verdict** to convict a defendant. If these requirements are not met, any conviction and subsequent incarceration are unconstitutional.

Here, the defendant properly filed a petition for a writ of habeas corpus in federal court since the state's highest court had affirmed his conviction (exhaustion of state appellate remedies). Although the defendant was properly tried by a six-member jury (**Choices B & C**), the conviction was unconstitutional since it was based on a vote of 5 to 1—not a unanimous guilty verdict. Therefore, the federal court will likely set aside the conviction (**Choice D**).

### Educational objective:

The Sixth Amendment right to a jury trial entitles criminal defendants who could be sentenced to more than six months in prison to a jury composed of at least six members. The defendant can then be convicted only by a unanimous jury verdict.

### References

U.S. Const. amend. VI (right to jury trial).

Baldwin v. New York, 399 U.S. 66, 69 (1970) (explaining that the Sixth Amendment right to a jury trial applies when a criminal defendant's prison sentence could exceed six months).

Williams v. Florida, 399 U.S. 78, 86 (1970) (affirming that criminal juries can be composed of six members).

Ramos v. Louisiana, 140 S. Ct. 1390, 1397 (2020) (holding that the Sixth Amendment right to a unanimous jury verdict applies to federal and state courts).

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