

**In The  
Supreme Court of the United States**

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EDWARD THOMAS JAMES,  
*Petitioner,*

v.

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,  
*Respondent.*

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**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE ELEVENTH CIRCUIT**

**RESPONDENT'S BRIEF IN OPPOSITION**

JAMES UTHMEIER  
ATTORNEY GENERAL OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL  
3507 E. Frontage Rd., Ste. 200  
Tampa, Florida 33607  
Telephone: (813) 287-7900  
carlasuzanne.bechard@myfloridalegal.com  
capapp@myfloridalegal.com

C. SUZANNE BECHARD  
Associate Deputy Attorney General  
*Counsel of Record*

TIMOTHY A. FREELAND  
Senior Assistant Attorney General

MICHAEL W. MERVINE  
Senior Assistant Attorney General

COUNSEL FOR RESPONDENT

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## Capital Case

### QUESTIONS PRESENTED<sup>1</sup>

James, a state prisoner, confessed and ultimately plead guilty to the rape and murder of an eight-year-old girl, and the subsequent murder of the girl's grandmother, and was sentenced to death. When appointed counsel sought to pursue postconviction relief, James told the court that he wished to withdraw the motion and discharge counsel. The colloquy which followed was sufficient to establish that his decision was both knowing and voluntary. James' judgment and sentence became final in 1997.

James did not file his habeas application until 2018. And while he tried to justify his tardiness through a combination of medical and other experts in an attempt to establish equitable tolling or actual innocence, the district court found neither of these exceptions applied, dismissed his untimely petition and denied a Certificate of Appealability (COA).

James requested COA in the Eleventh Circuit; while his request was pending, James filed a Rule 60(b) motion in the District Court seeking to amend his untimely habeas petition with additional evidence supporting his claim that the late filing was excused by equitable tolling or actual innocence. The district court disagreed, found that nothing James presented justified his more than ten-year delay in filing his federal habeas application. Moreover, the district court concluded, his proposed

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<sup>1</sup> Respondent notes that James filed the instant Petition two days prior to his scheduled execution and never provided a copy of his Petition to the Respondent, putting Respondent at a disadvantage in fashioning this response.

amendments would not have altered the court's determination that James failed to establish grounds to excuse application of AEDPA's procedural bar.

James then filed a motion seeking to stay his execution in the Eleventh Circuit and asserted that the district court's denial of his motion turns on an unsettled legal question that will be settled once this Court rules in *Rivers v. Guerrero*, Case No. 23-1345, presently on review before this Court. The Eleventh Circuit denied the stay because James' evidence established neither equitable tolling nor actual innocence, and even if James were to amend, the outcome would have been no different. James now seeks certiorari review of the Eleventh Circuit's denial of stay.

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## **OPINION BELOW**

The opinion from which Petitioner seeks certiorari review is the Eleventh Circuit's order denying his motion for stay of execution attached to James' Petition as Appendix A, *James v. Sec'y, Dept. of Corr.*, Case No. 25-10683 (11th Cir. March 13, 2025) (Doc. 15-1).

## **STATEMENT OF JURISDICTION**

Petitioner seeks to invoke this Court's jurisdiction under 28 U.S.C. § 1254. Respondent agrees that this Court has the authority to grant review under that statute but denies that this is an appropriate case for the exercise of this Court's discretionary jurisdiction as the Eleventh Circuit's order has no precedential value, does not conflict with any decision by this Court or any other United States court of appeals, and does not decide any important or unsettled question of federal law. *See* Sup. Ct. R. 10(a), (c).

## **STATEMENT OF THE CASE AND FACTS**

On September 19, 1993, James raped and strangled to death an eight-year-old girl; his judgment and sentence became final in 1997. *James v. State*, 695 So. 2d 1229, 1231 (Fla. 1997). He subsequently withdrew all postconviction claims and discharged appointed counsel in 2003, an act subsequently determined by the Florida Supreme Court as both knowing and voluntary. *James v. State*, 974 So. 2d 365 (Fla. 2008).

## **28 U.S.C. Section 2254 Proceedings**

On December 18, 2018, James, through counsel, petitioned for federal habeas relief. After a brief interlude during which James attempted to exhaust additional

claims in state court, James filed an amended habeas petition in 2022 and proffered a series of affidavits and medical records in an attempt to persuade the district court that it should excuse his decade-long delay in seeking habeas relief. *James v. Sec’y, Dep’t. of Corr.*, No. 25-10683, 2025 WL 796324, at \*1 (11th Cir. Mar. 13, 2025). The district court held that the habeas petition was barred by the statute of limitations. *Id.* at \*2. James was not entitled to equitable tolling because he had failed “(1) to show a causal connection between his mental impairments and his ability to timely file a § 2254 petition” and he had failed “(2) to demonstrate reasonable diligence.” *Id.* The district court further concluded that the actual innocence gateway was inapplicable, because there was “no reasonable likelihood that the new mental health evidence provided by Petitioner would prevent any reasonable juror from finding him guilty.” *Id.* As such, the district court denied the amended habeas petition as untimely and denied a certificate of appealability. It denied James’ motion for reconsideration on November 18, 2024. *Id.*

James appealed to the Eleventh Circuit Court of Appeals on December 17, 2024. *Id.* at \*2. On February 3, 2025, an Eleventh Circuit judge denied James’ application for a certificate of appealability, finding that jurists of reason would not debate the district court’s holding. *Id.* On February 24, 2025, six days after Florida Governor Ron DeSantis signed a death warrant and scheduled James’ execution for March 20, 2025, James filed a motion for reconsideration and an emergency motion for a stay of execution, which an Eleventh Circuit three-judge panel denied. *Id.*



On the same day he asked the Eleventh Circuit to reconsider denial of COA, James also filed a motion to amend his habeas petition, or alternatively, a motion for relief from judgment under Federal Rule of Civil Procedure 60(b) in the district court. *James*, 2025 WL 796324, at \*2. He argued that new evidence, i.e., CT scans and expert reports about those scans, warranted the application of equitable tolling or actual innocence. *Id.*

The district court denied James' Rule 60(b) motion, holding that the new evidence would not warrant the application of equitable tolling or the actual innocence gateway. *James*, 2025 WL 796324, at \*2. It denied James' alternative motion to amend his petition on the grounds that it lacked jurisdiction to allow an amendment after it had entered final judgment on the petition and, in any event, the new evidence would not alter the determination that his habeas petition was untimely. *Id.*

James then filed a second motion for a stay of execution with the Eleventh Circuit as well as a notice of appeal and a motion for a certificate of appealability. *James*, 2025 WL 796324, at \*2. On March 13, 2025, the Eleventh Circuit denied James' motion for a stay of execution. *Id.* at \*3. It found that he had not established a substantial likelihood of success on the merits. *Id.* at \*2-3. Namely, the newly offered medical evidence and James' previous evidence fail to establish a connection between any mental impairment and the time before, during, or after his waiver of collateral proceedings and through the end of his AEDPA limitations period. *Id.* at \*3. Further, the new evidence did not explain James' lack of reasonable diligence

during the same timeframe and his later decision to attempt to reinstate postconviction proceedings during the ten-year period between the Florida Supreme Court's affirmance of the denial of such reinstatement and his initiation of federal habeas proceedings in 2018. *Id.*

As to James' motion to amend the habeas petition, the Eleventh Circuit found that he had not established a substantial likelihood of success on the merits. Namely, under *Boyd v. Sec'y, Dep't of Corr.*, 114 F.4th 1232, 1236 (11th Cir. 2023), a prisoner cannot amend a habeas petition and relitigate the case after the district court has entered its final judgment and the prisoner has appealed. *James*, 2025 WL 796324, at \*3. This Court's granting of certiorari in *Rivers v. Lumpkin*, 99 F.4th 216 (5th Cir.), *cert. granted*, 145 S. Ct. 611 (2024), did not change the law and could not be the basis for granting a stay of execution. Further, the Eleventh Circuit held that even if the district court's jurisdictional ruling were incorrect, James' motion to amend would not render timely his failure to file a federal habeas petition until many years after the statute of limitations had run. *James*, 2025 WL 796324, at \*3. Finally, it held that a stay of execution would not be equitable, because James voluntarily abandoned his postconviction challenges years ago. *Id.*

James filed the instant certiorari petition in this Court 2 days before his execution is scheduled to take place. This is the State's Brief in Opposition.

## REASONS FOR DENYING THE PETITION

### **I. The so-called “Mid-Appeal Amendments” question would not change the fact that James’ habeas petition was untimely.**

James’ petition asks the Court to review the Eleventh Circuit’s denial of stay because, in his view, the grounds on which the district court ruled turns on an unsettled legal question presently on review in *Rivers v. Guerrero*, Case No. 23-1345. James confidently believes that this Court will ultimately approve a rule permitting amendment of a rejected petition even while appellate review of said petition is in progress. What James fails to perceive is that no change to a rule governing how and when a habeas petition may be amended can cure his defaulted habeas application, filed more than ten years late. James’ petition is a poor vehicle for advancing any kind of rule governing how and when such an amendment may occur. James’ habeas petition is not merely untimely, it is severely untimely, and James has never been able to establish otherwise. Even if James had been allowed to amend his habeas petition post-judgment, as he now advocates, there would have been no difference in the district court’s ruling. Petitioner’s claim that he was somehow harmed because he was prevented from making a necessary amendment is quite simply wrong.

#### **A. Eleventh Circuit Precedent**

James first contends that the Eleventh Circuit improperly relied on what he considers flawed precedent- *Boyd v. Sec’y, Dep’t of Corr.*, 114 F.4th 1232, 1236 (11th Cir. 2024), Yet despite James’ criticisms, *Boyd* stands for the unremarkable points that (1) a district court lacks jurisdiction to allow amendment following denial while

the appeal is pending, (2) post-judgment amendments are unauthorized, and (3) a motion seeking to amend the petition while the district court's denial is pending on appeal is treated as a second or successive petition, thus requiring the court's permission before proceeding.

James advances broad criticism of *Boyd*, asserting that it fails to follow this Court's precedent in *Panetti v. Quarterman*, 551 U.S. 930, 946 (2007) and *Banister v. Davis*, 590 U.S. 504 (2020). But *Panetti* merely cautions us in terms of whether all subsequent habeas petitions are necessarily treated the same (they aren't) and *Banister* addresses whether a Rule 59(e) motion should be treated as a successive or second petition (it shouldn't). Neither case is particularly relevant to James' claim and his suggesting otherwise further illustrates the complete lack of merit in his position.

But even if we were to take James' criticism of *Boyd* seriously, a position not recommended by Respondent, the argument still fails, because both the Eleventh Circuit and the district court reached their decision on alternate grounds, and James' broad and largely irrelevant shotgun challenge fails to undermine the decisions below.

Even if we reject *Boyd*, for example, the Eleventh Circuit's alternate grounds for denying a stay remains. Prior to amendment, the district court dismissed James' petition as untimely, and found no support for either equitable tolling or actual innocence. Subsequent to amendment, the district court said, James is in the same position- none of his evidence, including what he sought to advance as part of his

amendment, established sufficient grounds to render his petition timely. And if we follow James' assertion that this Court's resolution of *Rivers* will produce a rule permitting him to amend, the same result obtains. That is because nothing James has ever presented, including the evidence that formed the basis for his motion to amend, established grounds to avoid AEDPA's procedural bar, a conclusion reached by both of the courts who addressed that specific claim.

### **B. Circuit Split**

James' contention that there is a circuit split over the question of whether and when to permit amendment is, once again, completely irrelevant to determining whether his petition is timely. No matter what rule we apply from any of the federal circuits, the question of whether James should have been permitted to amend remains a red herring, resolution of which is completely irrelevant to the question of whether his habeas petition could ever be deemed timely. Once again, James has never been able to meet the requirements that might permit him to avoid AEDPA's strict time deadlines. His habeas petition was filed over ten years too late, and no exception to the procedural bar has been established.

### **C. *Rivers v. Lumpkin***

Here, James posits that when the Court finally resolves the issue of how and when an amendment is permitted, he still falls well short of the mark. But as has been argued earlier, no matter how this Court resolves *Rivers*, it will make not one whit of difference to James' situation. No matter how we look at James' flimsy argument, no amount of amendment in any form would render his petition suddenly

timely. This Court should reject any argument that the outcome of *Rivers* would ever have any effect on James.

## **II. This Court Should Reject James' Invitation to Examine the Evidence.**

Finally, James suggests that this Court should examine the wealth of evidence he proffered in the district court. The evidence in question was developed in a futile attempt to establish that when James waived his postconviction claims in 2003, he was incompetent and his waiver invalid. The district court examined all of James' evidence, including the materials that he attempted to introduce as an "amendment" after the district court had already ruled. Even with the new evidence, the district court concluded, James gets no relief. While James speaks of his wealth of scientific evidence in glowing terms, the district court found that much of the evidence James' presented was speculative, and, because most of it was not developed until 2019, the remainder had no relevance to the question of his competence at the time of his waiver. The district court instead concluded that the best evidence of James' mental state is what was documented around 2003.

During that relevant time, the district court said, there was quite simply no proof that James lacked the ability to pursue his habeas claims in a timely manner. To the contrary, jail records disclosed nothing unusual, a psychiatric evaluation conducted near 2003 showed nothing more serious than mild mental deterioration, and none of this would have prevented him from acting. Indeed, the district court noted, James was active and aware enough to write letters in 2005 in an effort to obtain new counsel and kick-start his previously abandoned *state* postconviction

claims. And while his efforts in that regard were ultimately futile, the Florida Supreme Court examined the colloquy between James and the trial judge and concluded that his 2003 waiver was both knowing and voluntary. *James v. State*, 974 So. 2d 365 (Fla. 2008). In short, James' evidence fails to show equitable tolling; he simply sat on his hands for over ten years when he should have been diligently pursuing the claims he now laments over. Avoidance of the procedural bar imposed by AEDPA is not available, as a matter of law, when the delay is caused by the petitioner's own waiver of state postconviction proceedings. *Menominee Indian Tribe of Wisconsin v. United States*, 577 U.S. 250, 256-57 (2016).

Nor was James able to establish actual innocence. For a gateway claim of innocence to be credible, it must be supported by "new reliable evidence -- whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence -- that was not presented at trial." *House v. Bell*, 547 U.S. 518, 537 (2006). And for a gateway claim of innocence to be compelling, it must be more likely than not, in light of the new evidence, no reasonable juror would find him guilty beyond a reasonable doubt -- or, to remove the double negative, that more likely than not any reasonable juror would have reasonable doubt." *Id.* at 538. This standard is "demanding" and permits review only in "extraordinary" cases. *Id.*. See *Barbour v. Hamm*, 2024 WL 3852155, at \*28 (M.D. Ala. Aug. 16, 2024) (discussing *McQuiggin v. Perkins*, 569 U.S. 383, 386 (2013) and lifting the time bar in a capital case based on new DNA results). As the district court concluded, James failed to meet this high bar, found his proffered evidence weak and unpersuasive, and ultimately denied relief

after thorough analysis of each claim.

James' attempt to establish actual innocence was severely hampered by the fact that he confessed multiple times, including during penalty phase when he testified under oath, and plead guilty to his crimes. An eyewitness, a young child who knew James because he lived in the house where the crimes occurred, was present and watched James stabbing the young child's grandmother. James stole items of value from the house and fled to California immediately after the murders. James' attempt to discredit these facts simply failed. The evidence of guilt was too strong, and the district court discounted experts who attempted to undermine James' multiple confessions and the testimony of the child who saw James do it.

James' petition is plainly frivolous and lacking in merit, his arguments foolish and irrelevant. Because the Eleventh Circuit's decision to deny stay of execution does not conflict with any decisions of this Court or involve an important, unsettled question of federal law, this Court should decline to issue the writ. The bottom line is that this case would be uncertworthy under normal circumstances, much less on the eve of an execution.

### **CONCLUSION**

Based on the foregoing, Respondent respectfully requests that this honorable Court deny the petition for a writ of certiorari.




Respectfully submitted,

JAMES UTHMEIER  
ATTORNEY GENERAL OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL  
3507 E. Frontage Rd., Ste. 200  
Tampa, Florida 33607  
Telephone: (813) 287-7900  
carlasuzanne.bechard@myfloridalegal.com  
capapp@myfloridalegal.com

For



---

C. SUZANNE BECHARD  
Associate Deputy Attorney General  
Florida Bar No. 147745  
*Counsel of Record*

TIMOTHY A. FREELAND  
Senior Assistant Attorney General

MICHAEL W. MERVINE  
Senior Assistant Attorney General

COUNSEL FOR RESPONDENT