

In the
Supreme Court of the United States

EDWARD THOMAS JAMES,
Petitioner,

v.

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.,
Respondents.

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

RESPONSE TO APPLICATION FOR STAY OF EXECUTION

On March 18, 2025, two days prior to his scheduled execution, Edward Thomas James, represented by the Office of the Federal Public Defender’s Capital Habeas Unit, filed in this Court, a petition for writ of certiorari seeking review of a decision from the United States Court of Appeals for the Eleventh Circuit in this active warrant case. The petition raises four issues: (1) whether a petitioner is prohibited in all circumstances from amending mid-appeal pleading unless his judgment is first set aside; (2) whether a motion to amend a federal habeas petition while an appeal from the dismissal of the petition is pending constitutes a second or successive petition under 28 U.S.C. § 2244(b); (3) whether the standard for equitable tolling on the basis of mental incapacitation turns on the extent of documentation of the severity of the impairment that hindered timely filing of a habeas petition; and (4) whether an

evidentiary hearing is warranted to resolve an equitable tolling issue when the material facts necessary to determine whether tolling is appropriate and in dispute. James also filed an application for a stay of execution based on that petition. This Court, however, should simply deny the petition and then deny the stay.

Stays of Execution

Stays of executions are not granted as “a matter of course.” *Hill v. McDonough*, 547 U.S. 573, 583-84 (2006). A stay of execution is “an equitable remedy” and “equity must be sensitive to the State’s strong interest in enforcing its criminal judgments without undue interference from the federal courts.” *Id.* at 584. There is a “strong equitable presumption against the grant of a stay where a claim could have been brought at such a time as to allow consideration of the merits without requiring entry of a stay.” *Nelson v. Campbell*, 541 U.S. 637, 650 (2004). Equity must also consider “an inmate’s attempt at manipulation.” *Gomez v. U.S. Dist. Ct. for N. Dist. of Cal.*, 503 U.S. 653, 654 (1992).

“Both the State and the victims of crime have an important interest in the timely enforcement of a sentence.” *Calderon v. Thompson*, 523 U.S. 538, 556 (1998). This Court has highlighted the State’s and the victims’ interests in the timely enforcement of the death sentence. *Bucklew v. Precythe*, 587 U.S. 119, 149-151 (2019). The people of Florida, as well as surviving victims and their families, “deserve better” than the “excessive” delays that now typically occur in capital cases. *Id.* at 149. The Court has stated that courts should “police carefully” against last-minute claims being used “as tools to interpose unjustified delay” in executions. *Id.* at 150. This

Court has also stated that last-minute stays of execution should be the “extreme exception, not the norm.” *Id.*

To be granted a stay of execution, James must establish three factors: (1) a reasonable probability that the Court would vote to grant certiorari; (2) a significant possibility of reversal if review was granted; and (3) a likelihood of irreparable injury to the applicant in the absence of a stay. *Barefoot v. Estelle*, 463 U.S. 880, 895 (1983). James must establish all three factors.

Probability of This Court Granting Certiorari

As to the first factor, there is little chance that four justices of this Court would vote to grant certiorari review of the questions regarding habeas petition amendments, equitable tolling, and actual innocence. Even if a habeas petition can be amended after the district court has issued its judgment and that judgment is pending review in the circuit court, James would not be entitled to habeas relief based on the district court’s alternative ruling, i.e., nothing James has ever presented, including the evidence cited in his motion to amend, establishes grounds to avoid the AEDPA’s procedural bar. As such, four justices of this Court, which is not in the business of issuing advisory opinions, *Laird v. Tatum*, 408 U.S. 1 (1972), are unlikely to vote to grant certiorari review of the Petition.

James fails the first factor, which is alone sufficient to deny the motion for a stay.

No Significant Possibility of Reversal

As to the second factor, there is no significant possibility of reversal on the questions presented. No matter whether James should have been permitted to amend his habeas petition after the district court issued its judgment, his habeas petition remains untimely. It was filed over ten years too late, and no exception to the procedural bar has been established. James' alleged new evidence that he was not competent to waive his postconviction litigation in 2003 was found by the district court to be speculative. 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, including a near contemporaneous psychiatric evaluation documenting nothing more serious than mild mental deterioration, which would not have prevented him from acting. Indeed, the court noted that 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. In short, James' evidence fails to show equitable tolling. Finally, James' attempt to establish actual innocence fails no better. He confessed on videotape and at trial. There was an eyewitness to his crimes. James stole and sold the victim's property while fleeing to

California where he was ultimately apprehended. James' attempts to discredit these facts simply fail.

Fundamental fairness does not mandate that James be allowed to relitigate his competency in 2003 to waive state postconviction proceedings, based on new evidence of his cerebral atrophy, discovered 20 years later, and on the eve of a warrant.

James fails the second factor as well.

Irreparable Injury

As to the third factor of irreparable injury, it is a given in capital cases. While the execution will cause irreparable injury, that is the inherent nature of a death sentence. The factors for granting a stay are taken from the standard for granting a stay as applied to normal civil litigation. This factor is not a natural fit in capital cases. In the capital context, more should be required. Otherwise, this factor would automatically be satisfied in every capital case. Indeed, this Court has stated in the capital context that "the *relative* harms to the parties" must still be considered, including "the State's significant interest in enforcing its criminal judgments." *Nelson*, 541 U.S. at 649-50 (emphasis added).

Here, James does not provide any unique or special argument as to why a last-minute stay is warranted in his specific case that outweighs the State's interest in enforcing the law. While the execution means James' pending litigation will be rendered moot, that consideration must be balanced by the fact that James has had years to raise these claims and did not do so until the eve of the execution. As the

Eleventh Circuit has noted regarding stays of execution, they amount to a commutation of a death sentence to a life sentence for the duration of the stay. *Bowles v. DeSantis*, 934 F.3d 1230, 1248 (11th Cir. 2019) (citing *Bucklew*, 587 U.S. at 149-151). Without finality, “the criminal law is deprived of much of its deterrent effect.” *Calderon*, 523 U.S. at 555-56. And real finality is the execution. Because James points to no specific argument in support of this factor, he fails this prong as well.

James fails to meet any of the three factors for being granted a stay of execution. Therefore, the application for a stay of execution should be denied.