

No. 24-6777

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IN THE  
**Supreme Court of the United States**

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EDWARD THOMAS JAMES,

Petitioner,

v.

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.,

Respondents.

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*On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Eleventh Circuit*

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**REPLY BRIEF IN SUPPORT OF  
PETITION FOR A WRIT OF CERTIORARI**

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***THIS IS A CAPITAL CASE  
WITH AN EXECUTION SCHEDULED FOR  
THURSDAY, MARCH 20, 2025, AT 6:00 P.M.***

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## REPLY BRIEF IN SUPPORT OF PETITION FOR CERTIORARI<sup>1</sup>

In his Statement of Jurisdiction, Respondent “denies that this is an appropriate case for the exercise of this Court’s discretionary jurisdiction.” BIO at 1. According to Respondent, the Eleventh Circuit’s order has no precedential value, it does not conflict with any decisions by this Court or *any other United States court of appeals*, and it does not decide any important or unsettled questions of federal law.” BIO at 1 (emphasis added).

Respondent’s assertion regarding conflicts with other courts of appeals is plainly inaccurate. The Eleventh Circuit’s position regarding mid-appeal amendments, like the Fifth Circuit’s decision in *Rivers v. Lumpkin*, 99 F.4th 216 (5th Cir. 2024), is in direct conflict with two other circuits, the Second and Third. *See Whab v. United States*, 408 F.3d 116, 118 (2d Cir. 2005); and *United States v. Santarelli*, 929 F.3d 95, 105 (3d Cir. 2019). Certainly, Respondent is aware that this Court has

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<sup>1</sup> Initially, Respondent complains that Mr. James never provided a copy of his petition for a writ of certiorari to Respondent, thereby disadvantaging him. *See* BIO at ii, n.1. This is patently false. Within minutes of filing the petition in Case Number 24-6777, and 29 minutes before the pleading appeared on this Court’s docketing system, Petitioner e-mailed the pleadings to Respondent’s general capital appeals e-mail address, capapp@myfloridalegal.com, as well as to the individual accounts of counsel Timothy Freeland and Michael Mervine—the named counsel for Respondent in the proceedings below.

Following the receipt of Respondent’s brief in opposition and review of the accusatory footnote, undersigned counsel contacted Respondent by the same email addresses to seek correction of his misstatement. Undersigned counsel included the email with the attached petition from the day before. Yet Mr. Freeland, responding from the same email address that undersigned counsel served the day before, refused to correct the statement, reporting that after “personally checking” with the other “supposed” recipients indicated in undersigned counsel’s email, none of them had received the petition or any of the associated documents.

granted certiorari to resolve the issue of mid-appeal habeas amendments. *See Rivers v. Guerrero*, No. 23-1345.

Respondent also mischaracterizes the district court’s ruling, stating that aside from finding it lacked jurisdiction, the district court denied on the basis that “in any event, the new evidence would not alter the determination that his habeas petition was untimely.” BIO at 3. Yet, the district court did no such thing. Citing to the Eleventh Circuit’s decision in *Boyd v. Secretary*, 114 F.4th 1232 (11th Cir. 2024), the district court denied Mr. James’ motion to amend entirely on the basis that it lacked jurisdiction to permit such amendment. MDFL-ECF 10 at 6.

Respondent has done nothing to counter the argument that the Eleventh Circuit’s precedent regarding the validity of mid-appeal habeas filings is erroneous as a matter of law. Instead, Respondent attempts to skirt the jurisdictional issue, and to instead draw this Court into some sort of quasi-harmless-error discussion. But, of course, that misses the point, as Mr. James’ motion to amend was denied on jurisdictional grounds, and this Court will soon decide in *Rivers* whether that ruling was correct. Thus, certiorari is warranted.

### **CONCLUSION**

This Court should grant a stay of Mr. James’ execution and grant a writ of certiorari to review the decision below.

Respectfully submitted,

/s/ Katherine A. Blair

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