

In the

United States Court of Appeals

For the Eleventh Circuit

No. 24-14162

EDWARD THOMAS JAMES,

Petitioner-Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,
ATTORNEY GENERAL, STATE OF FLORIDA,

Respondents-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 6:18-cv-00993-WWB-RMN

ORDER:

Edward Thomas James, a Florida inmate sentenced to death, seeks a certificate of appealability to appeal the denial of his petition for a writ of habeas corpus under 28 U.S.C. § 2254. He argues that this Court should issue a certificate of appealability on the district court's procedural rulings. After careful review, I **DENY** James's application for a certificate of appealability.

I.

In April 1995, James pleaded guilty to two counts of first-degree murder, aggravated child abuse, attempted sexual battery, kidnapping, grand theft, and grand theft of an automobile. He also pleaded nolo contendere to two separately charged counts of capital sexual battery. After a penalty-phase trial, a jury returned an advisory recommendation for a sentence of death for each of the first-degree murder convictions. The court sentenced James to death on both first-degree murder convictions.

James appealed, and the Florida Supreme Court affirmed his convictions and sentences. *James v. State*, 695 So. 2d 1229 (Fla. 1997). James then petitioned the Supreme Court of the United States for a writ of certiorari, which was denied on December 1, 1997.

On May 27, 1998, James, through counsel, moved for state postconviction relief. The trial court set an evidentiary hearing on some of his claims. But before it held a hearing, James filed a *pro se* notice that sought dismissal of his postconviction proceedings without prejudice. The trial court held a hearing and engaged in a colloquy with James to ensure that he understood the

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consequences of his actions. On April 21, 2003, the trial court discharged James's counsel and allowed James to withdraw his motion for postconviction relief.

More than two years later, James sought reappointment of counsel and reinstatement of his state postconviction proceedings. After holding a hearing, the trial court denied that motion. The Florida Supreme Court affirmed. *James v. State*, 974 So. 2d 365 (Fla. 2008).

In 2018, James filed a petition for federal habeas relief under 28 U.S.C. § 2254. James's habeas petition was stayed while he exhausted claims in state court. The state trial court denied his postconviction motion as untimely, the Florida Supreme Court affirmed that decision, and the Supreme Court of the United States denied James's petition for a writ of certiorari. Afterward, the district court lifted the stay on James's federal habeas petition. In 2022, James filed an amended habeas petition.

The district court denied James's amended petition as untimely filed and dismissed his case with prejudice. The district court also denied James a certificate of appealability. James then asked this Court to issue a certificate of appealability.

II.

A prisoner must receive a certificate of appealability to appeal the denial of a petition for a writ of habeas corpus. *See* 28 U.S.C. § 2253(c)(1). If a district court denies a prisoner's habeas petition on procedural grounds, we should issue a certificate of

appealability only if the prisoner establishes “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

“Ordinarily, when a state prisoner’s conviction becomes final following the termination of his direct appeal, he has one year in which to file a federal petition for a writ of habeas corpus.” *Downs v. McNeil*, 520 F.3d 1311, 1317 (11th Cir. 2008) (citing 28 U.S.C. § 2244(d)(1)). “That time is tolled by statute whenever a properly filed motion for state postconviction relief is pending.” *Id.* (citing 28 U.S.C. § 2244(d)(2)).

Two pathways may provide relief to a petitioner who faces a procedural bar due to an untimely filed petition. One pathway is equitable tolling, which “may apply ‘when a movant untimely files because of extraordinary circumstances that are both beyond his control and unavoidable even with diligence.’” *Johnson v. Fla. Dep’t of Corr.*, 513 F.3d 1328, 1332 (11th Cir. 2008) (quoting *Arthur v. Allen*, 452 F.3d 1234, 1252 (11th Cir. 2006)).

Another pathway is “actual innocence,” which, “if proved, serves as a gateway through which a petitioner may pass whether the impediment is a procedural bar, . . . or . . . expiration of the statute of limitations.” *McQuiggin v. Perkins*, 569 U.S. 383, 386 (2013). To succeed in making an actual-innocence gateway claim, a petitioner must “persuade[] the district court that, in light of the

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new evidence, no juror, acting reasonably, would have voted to find him guilty beyond a reasonable doubt.” *Id.*

III.

James argues that this court should issue a certificate of appealability on the district court’s procedural rulings for two reasons. First, James contends that reasonable jurists could debate whether he alleged facts that entitled him to equitable tolling. James contends that he provided the court with new evidence that he was incompetent when he discharged his postconviction counsel and withdrew his motion for postconviction relief. According to James, his habeas petition “proffered multiple mental health experts who opined on indicia that (1) [James] was incompetent at the time of his postconviction waiver, and (2) that incompetency persisted after his waiver.”

Reasonable jurists could not debate the district court’s conclusion that James failed to establish that he was entitled to equitable tolling. Equitable tolling requires that a petitioner “show both extraordinary circumstances and due diligence.” *Diaz v. Sec’y for Dep’t of Corr.*, 362 F.3d 698, 701 (11th Cir. 2004). As to extraordinary circumstances, “mental impairment is not a *per se* reason to toll a statute of limitations.” *Hunter v. Ferrell*, 587 F.3d 1304, 1308 (11th Cir. 2009). James neither alleges facts nor provides evidence of how any mental impairment caused him to discharge his counsel or discontinue his state postconviction proceedings. That is, none of the evidence established a “causal connection between [James’s] alleged mental incapacity and his ability to file a timely petition,”

which is necessary to justify equitable tolling. *Hunter v. Ferrell*, 587 F.3d 1304, 1308 (11th Cir. 2009) (quoting *Lawrence v. Florida*, 421 F.3d 1221, 1226 (11th Cir. 2005)).

James also failed to allege that he acted with reasonable diligence between when he discontinued his postconviction proceedings and the end of the one-year limitation period. James has not established that his mental health problems prevented him from timely filing a petition for habeas relief. Therefore, reasonable jurists would not debate the district court's denial of equitable tolling.

Second, James argues that reasonable jurists could debate the district court's procedural ruling as to his actual innocence gateway claim. Not so. James's newly offered evidence cannot overcome the sole eyewitness's identification of James as the killer, James's possession of one of the victim's car and jewelry, his cross-country flight from the crime scene, and his own confession to the crimes. James's new evidence fails to establish that no reasonable jury could have convicted him of the crimes.

IV.

James's application for a certificate of appealability is **DENIED**.

/s/ Andrew L. Brasher
UNITED STATES CIRCUIT JUDGE

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
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Clerk of Court

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February 03, 2025

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Appeal Number: 24-14162-P

Case Style: Edward Thomas James v. Secretary, Department of Corrections, et al

District Court Docket No: 6:18-cv-00993-WWB-RMN

The enclosed copy of this Court's order denying the application for a Certificate of Appealability is issued as the mandate of this court. See 11th Cir. R. 41-4. Counsel and pro se parties are advised that pursuant to 11th Cir. R. 27-2, "a motion to reconsider, vacate, or modify an order must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing."

Any pending motions are now rendered moot in light of the attached order.

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

Enclosure(s)

DIS-4 Multi-purpose dismissal letter