No. 24-A891

In the

Supreme Court of the United States

EDWARD THOMAS JAMES,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA

RESPONSE TO APPLICATION FOR STAY OF EXECUTION

On March 17, 2025, James, represented by the counsel Katherine Blair and the Federal Capital Habeas Unit ("CHU"), filed in this Court a petition for writ of certiorari seeking review of a decision from the Eleventh Circuit in this active death warrant case. The petition raised one question: whether the Eleventh Circuit properly denied a Certificate of Appealability (COA) following the District Court's dismissal of James' untimely habeas application. This Court 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. James is not entitled to the equitable remedy he seeks.

James' specious claim that the State is attempting to "truncate" his litigation in federal court (Motion at 2), completely disregards the fact that his present disenchantment is the direct result of *his own conduct and delay* in presenting his

meritless claims, which could have been resolved long ago.[1] James did nothing to pursue his federal claims and allowed more than ten years to pass before seeking federal habeas review. Justice is long overdue for this horrendous double homicide case, which includes the brutal rape and murder of an eight-year-old child.

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 on the issues raised here. Recognizing that his habeas application was untimely, James sought to establish either Equitable Tolling or Actual Innocence as grounds for avoiding the procedural bar imposed by AEDPA's strict one-year deadline. It is noteworthy that James' habeas application was not only slightly tardy; he allowed more than ten years to pass before finally deciding to pursue federal relief. In assessing James' claims, the District Court first examined the record, and concluded that James' last properly filed pleading in Florida was his postconviction motion in which James decided, in 2003, to withdraw and discharge counsel. The District Court properly concluded that the AEDPA clock started ticking on this date. And because there was no doubt that his habeas application was untimely, the District Court addressed first James' evidence of equitable tolling before turning to his actual innocence claim. We address these in the same order.

James' evidence, the district court observed, consisted of assorted medical and psychiatric tests along with other expert opinions, most of them collected in and around 2018, the year James' habeas petition was filed. While some of James' experts agreed

[1]This case was final on direct appeal in 1997 when this Court denied James' petition for a writ of certiorari on December 1, 1997. *James v. Florida*, 522 U.S. 1000 (1997).

that he suffered from some degree of mental deterioration, the District Court found much if it lacking and none of it relevant to that critical time period following 2003, during which James allowed his habeas time to expire. The District Court found nothing to establish a causal link between James' alleged mental deterioration and his failure to timely file. To the contrary, the District Court said, contemporaneous records from Florida's prison system showed nothing out of the ordinary. Indeed, James was alert and capable enough in 2005 to request appointment of postconviction counsel so he could attempt to resume his challenges (Doc. 90 p. 26), although he still did nothing with regard to his federal habeas application.

Noting that to be eligible for equitable tolling, James would have to establish *both* extraordinary circumstances and due diligence. The District Court was doubtful about whether James had established extraordinary circumstances, but even if he had, his more than ten-year delay established an absence of due diligence. These facts are not debatable by reasonable jurists and the Eleventh Circuit properly denied COA on this ground.

Turning next to James' evidence of actual innocence, the District Court noted the extensive evidence of guilt. In addition to James' multiple confessions, including during penalty phase where he admitted his crimes to his penalty phase jury, James was renting a room from the grandmother he murdered, and living in the house was a young girl who knew James well because he was living in the house she frequented. This child stood in the doorway and watched in horror while James repeatedly stabbed the child's grandmother to death. Expert testimony challenging the child's credibility was discounted by the District Court as being largely speculative. Considering the available

evidence as a whole, the District court found that James failed to establish actual innocence either, and declined to grant COA.

The Eleventh Circuit accepted the District Court's conclusions and agreed that James failed to establish grounds to excuse his tardiness. James' timely request for reconsideration of that finding was denied. In short, there is no reasonable probability that four justices of this Court would agree to accept certiorari.

Significant Possibility of Reversal

As to the second factor, there is no significant possibility of reversal here. The District Court's extensive Order shows in substantial detail why James failed to establish grounds for excusing his tardiness in seeking habeas relief. The Eleventh Circuit's denial of James' request for COA revealed not only that it was well familiar with the proceedings in the District Court, but agreed that James failed to establish grounds for avoiding AEDPA's procedural bar as to either Equitable Tolling or Actual Innocence. Thus, James fails to meet this 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 v. Sec'y, Alabama Dep't of Corr.*, 541 U.S.

637, 649-50 (2004) (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 he 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 v. Precythe*, 587 U.S. 119, 149-151 (2019)). Without finality, "the criminal law is deprived of much of its deterrent effect." *Calderon v. Thompson*, 523 U.S. 538, 555-56 (1998). 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.

Respectfully submitted,

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