

No. 24A891
IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 2024

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*

**REPLY IN SUPPORT OF
APPLICATION FOR STAY OF EXECUTION**

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

Respondent defends the signing of a warrant during the pendency of Mr. James’ initial 28 U.S.C. § 2254 proceedings by emphasizing that Mr. James “did nothing to pursue his federal claims and allowed more than ten years to pass before seeking federal habeas review.” Response at 3. But Respondent’s logic is circular—Mr. James’ entire equitable tolling argument, supported by a proffer of multiple expert opinions, is based on his incompetency to seek federal habeas review on his own during the entirety of that timeframe, particularly given the Florida Supreme

Court's refusal to allow him access to counsel. Blaming Mr. James for his delay in seeking federal habeas review begs the very equitable tolling question that was being litigated when the proceedings were interrupted by the Governor's signing of a death warrant. And Respondent fails to explain why the State did not pursue an execution during those ten years, instead waiting until Mr. James accessed counsel and was in the middle of litigating his first federal petition before deeming his execution urgent and overdue.

Respondent touts the district court's findings that Mr. James' voluminous expert proffer was "lacking," *id.* at 3-4, but ignores that the district court made those findings without granting an evidentiary hearing, which Petitioner requested and which AEDPA would not have restricted as to a procedural issue like equitable tolling. Respondent provides no explanation for why the district court refused to hold a hearing on the disputed facts underling Mr. James' equitable tolling argument, despite his detailed expert proffer. And Respondent provides no reason why the district court treated Mr. James' equitable tolling proffer differently than it did the proffer in *Miller v. Sec'y, Fla. Dep't of Corrs.*, No. 3:17-cv-932, ECF 35 at 10-12 (M.D. Fla. Apr. 16, 2021), where it ordered an evidentiary hearing based on the petitioner having presented "significant allegations" regarding a discrete equitable tolling issue.

As to the likelihood-of-success factor, Respondent skirts the procedural posture of this case. The issue before this Court on certiorari review is whether, under the threshold COA standard, reasonable jurists could debate the district court's 120-page order dismissing the petition as untimely without holding an evidentiary hearing on

the disputed facts relating to equitable tolling. At a minimum, reasonable jurists could debate whether the district court should have held an evidentiary hearing. As a result, there is a substantial likelihood that Petitioner succeeds on the merits of his arguments, and Respondent offers no specific reasons to conclude otherwise.

Finally, Respondent charges that Mr. James “has had years to raise these claims and did not do so until the eve of his execution.” Response at 6. This makes no sense—Petitioner filed his federal habeas petition in 2018. He was still litigating that petition in the normal course, an opportunity afforded to every other federal habeas litigant, when the Governor signed a death warrant, truncating his Eleventh Circuit proceedings and his opportunity to seek regular certiorari review. This Court should not tolerate Florida’s disregard for Mr. James’ initial federal habeas litigation.

The Court should grant a stay of execution.

Respectfully submitted,

/s/ Katherine A. Blair

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MARCH 19, 2025