No. 24-6776

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

REPLY BRIEF IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

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

Katherine A. Blair
Counsel of Record
Sean T. Gunn
Lauren E. Rolfe
Capital Habeas Unit
Office of the Federal Public Defender
Northern District of Florida
227 North Bronough St., Suite 4200
Tallahassee, Florida 32301
(850) 942-8818
katherine_blair@fd.org

Counsel for Petitioner

REPLY BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

Most of Respondent's arguments opposing certiorari review boil down to one thing: faulting Mr. James for going years without filing a habeas petition after he waived counsel and collateral proceedings in 2003. *See* BIO at 7-8, 9. But this does not negate Mr. James' specific factual allegations that his 2003 waivers—and the subsequent 15 years without counsel or a habeas filing—were the result of mental incapacity. Respondent's recurrent dispute of these allegations only underscores why a COA should have been granted: reasonable jurists could debate whether Mr. James' proffer was sufficient for an evidentiary hearing at which he would bear the burden of proving a causal nexus between his mental incapacity and untimely filing.

I. The lower courts' analysis of equitable tolling was not "thorough"

Respondent assures this Court that the Eleventh Circuit "conducted a thorough analysis of [Mr. James'] claims and properly concluded that no reasonable jurist would agree that the District Court's analysis was either debatable or wrong," but that is not the case. BIO at 9. As to the district court's analysis, Respondent misconstrues or fails to acknowledge the implications of several facts.

For instance, Respondent relies on 2005 prison records he says are "roughly contemporaneous" with the state-court waiver and indicate that Mr. James was "alert, aware of person, place, time and situation, and had a cooperative attitude." BIO at 10. But these facts—which essentially amount to a lack of florid psychosis—have no bearing on Mr. James' ability to litigate his own incompetency or file a habeas petition without the assistance of counsel. As Mr. James explained, an ability to function within the highly structured and restrictive prison environment *is consistent*

with his mental impairments. Pet. at 12. And, the district court dismissed another 2005 prison record reflecting that Mr. James had "impaired thinking." The district court's equitable tolling analysis was not based on a complete review of the records—it was based mostly on the court's own speculations and unsupported conclusions.

Respondent insists that because Mr. James' "mental state in 2005 did not prevent him from writing a request for appointment of postconviction counsel," he could have easily filed a federal habeas petition as well. BIO at 9, 10. Among other things, this ignores that after seeking reappointment of counsel, Mr. James was told by the Florida courts that his litigation was over and nothing further could be done.[1] Diligence did not require a mentally compromised and unrepresented Mr. James to brush past the Florida Supreme Court's admonition and proceed to litigate his own mental health and incompetency issues in federal court on his own.[2]

II. Respondent relies on the wrong precedent

Respondent relies heavily on a noncapital, non-habeas case: *Menominee Indian Tribe of Wisconsin v. United States*, 577 U.S. 250 (2016). *See* BIO at 9. But in habeas, mental incapacity is a recognized ground for equitable tolling. *See, e.g.*, *Hunter v. Ferrell*, 587 F.3d 1304, 1308 (11th Cir. 2009) (referencing this Court's decision in

[1] *See, e.g.*, *James v. State*, 974 So. 2d 365, 367-68 (Fla. 2008) (finding that Mr. James had been "explicitly warned" that his waiver "precluded" him from further relief).

[2] Respondent's recitation of Mr. James' IQ scores wholly ignores the expert conclusions explaining that IQ does not equate to competency. *See, e.g.*, Pet. at 12 (citing Dr. Eisenstein's conclusion that Mr. James' intelligence does not dictate his overall functioning or ability to engage in cognitive reasoning); *id.* (citing Dr. Castillo's conclusion that Mr. James' intelligence "was not a protective factor for him" and his myriad cognitive impairments served to override his intellectual strengths).

Lawrence v. Florida, 549 U.S. 327 (2007)). Where, as Mr. James has alleged, mental incapacity affects a petitioner's ability to file a timely petition, any delay cannot be said to have been "caused by the petitioner's intentional conduct." BIO at 9.

Further, Respondent completely ignores Mr. James' citation to a directly analogous case where an evidentiary hearing was ordered upon the petitioner's "significant allegations" regarding a discrete equitable tolling issue. Pet. at 19 (citing *Miller v. Sec'y, Fla. Dep't of Corrs.*, No. 3:17-cv-932 (M.D. Fla. Apr. 16, 2021)). In *Miller*, as in this case, the initial petition was filed well over a decade after the statute of limitations expired, and the petitioner alleged impairments caused by mental illness as grounds for equitable tolling. *Id.*, ECF 24 at 6-8; *see also id.*, ECF 15. And in *Miller*, as in this case, Respondent argued the petition should be dismissed as untimely without first holding an evidentiary hearing. *Id.*, ECF 26.

Unlike in *Miller*, however, Mr. James languished without counsel for the duration of the equitable tolling period. In fact, Respondent argued in *Miller* that:

> Certainly, if a petitioner is *pro se*, his mental health issues can constitute extraordinary circumstances which justify equitable tolling….Though Miller's alleged mental illness could impair his ability to act with due diligence, it does not constitute an extraordinary circumstance because his attorney could have filed a timely petition despite Miller's alleged mental illness.
>
> * * * * *
>
> In this case, Miller cannot demonstrate a causal connection between his mental incapacity and the untimely filing of the petition because he was represented by counsel.

Id., ECF 26 at 5-6, 7. Notwithstanding Respondent's arguments, the court in *Miller* held an evidentiary hearing on a discrete aspect of the equitable tolling inquiry, even though resolution of the disputed facts in Miller's favor would not necessarily render

his petition timely. *Id.*, ECF 35 at 10-12. And, in denying a COA on the district court's ultimate denial of Mr. Miller's petition as untimely, the Eleventh Circuit did not criticize the holding of a hearing. *See Miller v. Sec'y, Fla. Dep't of Corrs.*, No. 22-10657, 2022 WL 1692946 (11th Cir. May 10, 2022); *see also id.*, ECF. 15-1 (Jordan, J., concurring in denial of reconsideration) (discussing evidentiary hearing testimony). Indeed, Eleventh Circuit and Supreme Court precedent confirms that the district court's procedure in *Miller* is the proper way to evaluate factual disputes in an equitable tolling context. Pet. at 18-19.

III. Respondent misunderstands Mr. James' legal arguments

On three points of law, Respondent has misconstrued Mr. James' position. As to *Rhines v. Weber*, 544 U.S. 269 (2005), Mr. James never stated that *Rhines* imposed an identical standard to COA analysis. *See* BIO at 10. Rather, Mr. James presented an analogy between (a) the assessment the district court necessarily had to conduct in determining that Mr. James had made enough of a "good cause" showing for not presenting his 2018 constitutional claims earlier, such that it was appropriate to stay federal proceedings in order to exhaust the claims in state court; and (b) the COA threshold analysis of whether any reasonable juror could debate whether Mr. James' factual allegations were sufficient to warrant further evidentiary development on whether his mental impairment caused his untimely habeas filing.

Second, Mr. James never alleged a constitutional right to postconviction counsel. *See* BIO at 12-13. Nor did he allege that Florida's 2022 repudiation of its prior rule, which allowed Mr. James to languish without counsel for 15 years, was a

constitutional issue. Mr. James simply alleged that the extraordinary circumstances presented by his deprivation of counsel—when viewed in tandem with his mental incapacity—constituted equitable grounds for excusing a missed AEDPA deadline.

Third, Mr. James never stated that "because he presented a multitude of claims alleging denial of a substantial constitutional right, this alone was sufficient to merit a COA." BIO at 13. Mr. James simply complied with precedent requiring a COA on a procedural dismissal to also account for at least one substantial underlying constitutional claim (Mr. James' petition presented 11 such claims). *See Lambrix v Sec'y, Dep't of Corrs.*, 872 F.3d 1170, 1179 (11th Cir. 2017) (vacating district court's COA grant for failure to specify an underlying constitutional right). To date, none of Mr. James' claims have been reviewed on the merits.

CONCLUSION

It is not Mr. James' burden—at the COA stage **or** the underlying § 2254 pleading juncture—to conclusively rebut Respondents' factual disputes or the courts' speculations about his functioning. Pet. at 18-19 (citing cases). At this stage, Mr. James need only show that reasonable jurors could debate whether he has made nonspeculative, non-detailed factual allegations that, *if fully proven*, could entitle him to equitable tolling of the AEDPA statute of limitations. This is meant to be an extremely low burden, and Mr. James has carried it.

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
Katherine A. Blair
Counsel of Record
Sean T. Gunn
Lauren E. Rolfe
Capital Habeas Unit
Office of the Federal Public Defender
Northern District of Florida
227 North Bronough St., Suite 4200
Tallahassee, Florida 32301
(850) 942-8818
katherine_blair@fd.org

Counsel for Petitioner

MARCH 19, 2025