No. 24-____

IN THE
Supreme Court of the United States

THERESA BATSON,
Petitioner,

v.

FLORIDA DEPARTMENT OF CORRECTIONS,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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May 12, 2025

QUESTION PRESENTED

The Antiterrorism and Effective Death Penalty Act of 1996 establishes a one-year statute of limitations for an individual in state custody to file a federal habeas petition. 28 U.S.C. § 2244(d). As relevant here, that clock runs from "the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review." *Id.* § 2244(d)(1)(A). If an individual secures a new judgment amending her convictions or custodial sentence during direct review, that restarts the limitations period.

Had this case arisen in the Sixth Circuit, petitioner would have gotten relief. The rule in that circuit is, regardless of how a state trial court labels a judgment, an amended judgment changing an individual's "conditions of confinement" resets the federal limitations period. *Crangle v. Kelly*, 838 F.3d 673, 680 (6th Cir. 2016) (per curiam). In the Eleventh Circuit, however, a state trial court's designation of a judgment as "*nunc pro tunc*" to the petitioner's initial conviction prevents the limitations period from resetting, no matter the substance of that judgment. *Osbourne v. Secretary, Florida Dep't of Corr.*, 968 F.3d 1261, 1266-67 & n.4 (11th Cir. 2020). The issue in this case is whether a state court can prevent the federal limitations period in Section 2244(d)(1)(A) from restarting by labeling an amended judgment *nunc pro tunc* when that judgment substantively alters a petitioner's conviction and sentence.

The question presented is: Whether a state court's entry of an amended judgment *nunc pro tunc* prevents that judgment from restarting the federal statute of limitations period for filing a habeas petition in 28 U.S.C. § 2244(d)(1)(A).

RELATED CASES

Decisions Under Review:

Cassidy v. Secretary, Florida Dep't of Corr. & Batson v. Florida Dep't of Corr., 119 F.4th 1336 (11th Cir. Oct. 28, 2024) (Nos. 21-14257 & 23-13367) (affirming district court in part, vacating in part, and remanding)

Batson v. Florida Dep't of Corr., 2023 WL 6142460 (S.D. Fla. Sept. 20, 2023) (No. 22-cv-14354-BLOOM/Reinhart) (order dismissing 28 U.S.C. § 2254 petition as untimely)

Batson v. Florida Dep't of Corr., No. 23-13367 (11th Cir. Jan. 10, 2025) (order denying rehearing)

Prior, Related Decisions:

Batson v. State, 85 So. 3d 496 (Fla. Dist. Ct. App. Mar. 28, 2012) (No. 4D10-3380)

Batson v. State, 211 So. 3d 133 (Fla. Dist. Ct. App. Feb. 1, 2017) (No. 4D15-2728)

Batson v. State, 257 So. 3d 134 (Fla. Dist. Ct. App. Nov. 1, 2018) (No. 4D17-2906)

Batson v. State, 324 So. 3d 942 (Fla. Dist. Ct. App. Aug. 26, 2021) (No. 4D21-680)

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STATUTES AND RULES

Theresa Batson respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

INTRODUCTION

This case presents a statutory interpretation issue that implicates fundamental principles of federalism and constitutional law: whether, by labeling an amended judgment that alters an individual's conviction or custodial sentence *nunc pro tunc*, a state trial court can prevent that person from obtaining federal habeas relief under the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"). In ruling that a state court's *nunc pro tunc* designation is controlling for purposes of federal habeas law, the Eleventh Circuit created a conflict with the Sixth and Ninth Circuits, which have held the opposite. Its holding also disregarded this Court's precedent clarifying that federal courts applying federal law must look to the substance and effect of a state court's judgment, rather than how the court chose to label that judgment.

The Eleventh Circuit's decision prevents habeas petitioners likely to have the most meritorious claims from exercising their constitutional right to habeas review. Its holding as to Ms. Batson should be reversed.

OPINIONS BELOW

The opinion of the court of appeals (App. 1a-19a) is reported at 119 F.4th 1336. The district court's order dismissing petitioner's 28 U.S.C. § 2254 petition as untimely (App. 20a-33a) is not reported but is available at 2023 WL 6142460.

JURISDICTION

The court of appeals entered its judgment on October 28, 2024. A timely petition for rehearing was denied on January 10, 2025. App. 34a. Ms. Batson timely applied for a 32-day extension of time to file this petition, which the Court granted on March 31, 2025, extending the filing deadline to May 12, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

Relevant provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (28 U.S.C. § 2244) and 28 U.S.C. § 2254 are reproduced at App. 35a-41a.

STATEMENT

A. Legal Background

1. AEDPA places a one-year statute of limitations on federal habeas claims brought by petitioners in state custody. 28 U.S.C. § 2244(d)(1). That one-year clock runs from (among other things) "the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review." *Id.* § 2244(d)(1)(A). The limitations period remains tolled while an individual pursues state postconviction relief but begins to run "[a]fter the State's highest court has issued its mandate or denied review." *Lawrence v. Florida*, 549 U.S. 327, 332 (2007).

AEDPA's text ties the statute of limitations to "the judgment" holding the petitioner "in custody." 28 U.S.C. § 2244(d)(1). While a petitioner is allowed only one opportunity to challenge the judgment holding her in custody, an amended judgment that alters her convictions or custodial sentence replaces the original—becoming "the judgment" for AEDPA purposes. *See Magwood v. Patterson*, 561 U.S. 320, 333 (2010)

("Custody is crucial for § 2254 purposes, but it is inextricable from the judgment that authorizes it."); *Patterson v. Secretary, Florida Dep't of Corr.*, 849 F.3d 1321, 1326 (11th Cir. 2017) (en banc) ("[T]he only judgment that counts for purposes of section 2244 is the judgment 'pursuant to' which the prisoner is 'in custody.'") (quoting 28 U.S.C. § 2254(b)(1)). When a petitioner secures such an amended judgment, AEDPA's statute of limitations begins anew. *See Patterson*, 849 F.3d at 1326; *Ferreira v. Secretary, Dep't of Corr.*, 494 F.3d 1286, 1293 (11th Cir. 2007) ("[T]he writ and AEDPA, including its limitations provisions, are specifically focused on the judgment which holds the petitioner in confinement.").

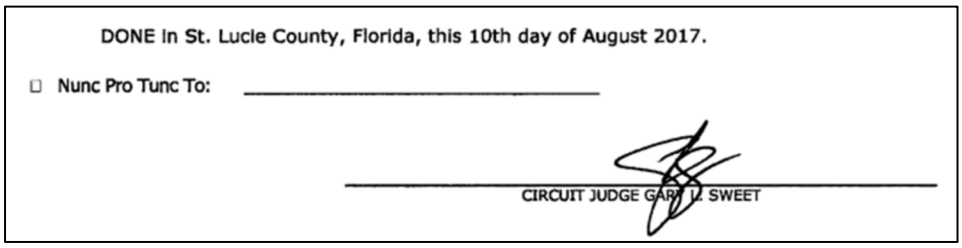
2. The Eleventh Circuit added an exception to this rule: if a state court enters an amended judgment "*nunc pro tunc*," meaning "now for then," that designation alone prevents the order from qualifying as a new judgment holding the petitioner "in custody" and prevents Section 2244(d)(1)'s limitations period from restarting. App. 8a-9a. The *nunc pro tunc* label, in the court's view, automatically causes the judgment to "relate[] back" to the date of the initial conviction, regardless of its substance. *Id.* Even when the judgment alters a petitioner's conviction and custodial sentence—and, absent the *nunc pro tunc* label, would reset the limitations clock—the Eleventh Circuit held that a state trial court's entry *nunc pro tunc* prevents the federal limitations period from restarting. And even when the *nunc pro tunc* designation itself violates state law, the Eleventh Circuit held that designation nonetheless controls the federal limitations period.

B. Proceedings Below

1. In 2008, the State of Florida charged Ms. Batson for conspiring with her son to hire an acquaintance to kill her boyfriend and his brother. Following a trial in May 2010, a jury convicted Ms. Batson of two counts of conspiracy to commit first-degree murder (Counts One and Two) and two counts of solicitation to commit first-degree murder (Counts Three and Four). C.A.App. 4. On July 1, 2010, a Florida circuit court entered a judgment of conviction. C.A.App. 5-6. The trial court sentenced Ms. Batson to a total of 60 years in prison: 30 years on each of the four counts, with her sentences on Counts One and Three running concurrently to each other but consecutively to the sentences on Counts Two and Four, which ran concurrently to each other. C.A.App. 7-15. Following the state appellate court's denial of Ms. Batson's appeal and motion for rehearing, the mandate issued on May 25, 2012. C.A.App. 18.

In 2013, Ms. Batson moved for postconviction relief under Florida Rule of Criminal Procedure 3.850, arguing, among other things, that her counsel was constitutionally ineffective for failing to challenge her conspiracy convictions on double jeopardy grounds. C.A.App. 19-45. Her motion explained that, despite only one alleged agreement to conspire, she had been convicted of two counts of conspiracy. Ultimately, Florida's Fourth District Court of Appeal determined that Ms. Batson's double jeopardy claim had merit and remanded the case for an evidentiary hearing to determine whether a constitutional violation had occurred. C.A.App. 131-33.

At an August 10, 2017 hearing, the State "concede[d]" that Ms. Batson's conspiracy convictions violated the constitutional prohibition against double jeopardy and asked the trial court to vacate Count One. C.A.App. 137. On August 17, 2017, the court entered an "[a]mended" judgment vacating that count of Ms. Batson's conviction and "adjudicat[ing]" her "guilty . . . as to Count(s) 2, 3, 4." C.A.App. 140 (boldface omitted, capitalization altered). The court did not designate the amended judgment *nunc pro tunc*:


DONE In St. Lucie County, Florida, this 10th day of August 2017.

☐ Nunc Pro Tunc To: _____

_____

CIRCUIT JUDGE GARY L SWEET

C.A.App. 142.

Ms. Batson appealed, and a procedural back-and-forth ensued between the state trial and appellate courts that was resolved in May 2018, when the trial court entered an order "amend[ing] the sentence on Count[s] 2 and 4" so that they ran concurrently to each other and consecutively to Count Three. C.A.App. 151. The court directed the clerk to issue amended sentence forms reflecting the new sentence. Although the court's order did not indicate that Ms. Batson's sentence should be entered *nunc pro tunc*, the amended sentence reads "Nunc Pro Tunc to: 07/01/2010." C.A.App. 158 (emphasis omitted). The state appellate court affirmed and issued its mandate on November 30, 2018. C.A.App. 165.

Meanwhile, Ms. Batson again moved to correct her sentence under Florida Rule of Criminal Procedure 3.800. After her motion was denied, C.A.App. 166-69,

Ms. Batson unsuccessfully appealed, moved for rehearing, and moved to recall the mandate. The Fourth District denied Ms. Batson's motion to recall the mandate on November 15, 2021. C.A.App. 170.

2. On October 10, 2022, Ms. Batson filed a *pro se* habeas petition in federal district court, raising five grounds for relief. C.A.App. 171-92. The court dismissed the petition as untimely after determining that AEDPA's one-year statute of limitations ran from the date Ms. Batson's original 2010 conviction became final. App. 20a-33a. But the court expressed uncertainty as to whether the statute of limitations should instead run from when her 2017 amended judgment became final, which would have made her petition timely. It noted that the Eleventh Circuit "ha[d] yet to answer" whether an amended judgment qualifies as a new judgment for purposes of Section 2244 when a habeas petitioner challenges only convictions the amended judgment reinstated, and other courts of appeals are "decidedly 'split'" on this issue. App. 26a-27a (quoting *Cassidy v. Dixon*, 2021 WL 6808302, at *2 (N.D. Fla. Dec. 22, 2021) (Cannon, Mag. J.), *report and recommendation adopted*, 2022 WL 356038 (N.D. Fla. Feb. 7, 2022) (Stafford, J.)).

While the district court recognized that Ms. Batson had secured "an amended judgment" and that this judgment "authoriz[ed]" her confinement, it nonetheless concluded that the 2017 amended judgment "relates back" to her original conviction because the state trial court designated her amended sentence "*nunc pro tunc* to July 1, 2010," and her "term of imprisonment remained unchanged." App. 29a-30a. Because Ms. Batson filed her petition more than one year after her original judgment

became final, the court dismissed it as untimely. Citing the circuit split, however, the district court issued a certificate of appealability on whether the 2017 judgment "restart[ed] the federal limitations period under AEDPA." App. 33a.

Ms. Batson timely appealed to the Eleventh Circuit, which consolidated her case with that of another habeas petitioner in the same situation, Michael L. Cassidy. Both Ms. Batson's and Mr. Cassidy's habeas petitions would be timely if the statute of limitations ran from their amended judgments but not if it ran from their original convictions. Mr. Cassidy secured an amended judgment vacating one count of his conviction following postconviction proceedings determining that his trial lawyer provided constitutionally ineffective assistance by failing to examine military deployment records (which may have exonerated Mr. Cassidy as to that count). Although a signature block with the date of Mr. Cassidy's original conviction appeared on the amended judgment,[1] the state trial court e-signed the form with the current date. The words *nunc pro tunc* did not appear on Mr. Cassidy's amended judgment or sentence.

In September 2024, the Eleventh Circuit heard oral argument on the question whether AEDPA's statute of limitations ran from Ms. Batson's and Mr. Cassidy's original convictions or their amended judgments. On October 28, 2024, the court issued a consolidated opinion holding that, when a court "vacate[s] at least part of

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[1] The final page of Mr. Cassidy's second amended sentence reads: "Done and Ordered in open court at Okaloosa County, Florida this **8th** day of **August 2012** and **signed ___ day of _____, 2014**." C.A.App. 145, No. 21-14257, Dkt. 51 (11th Cir. Mar. 15, 2024). The court e-signed the amended judgment with the date "10/10/2017." *Id.*

the original judgment and enter[s] an amended judgment that confines the prisoner going forward," a petitioner has one year from the date the amended judgment becomes final to challenge any part of that judgment. App. 16a. The court of appeals therefore reversed the district court's denial of Mr. Cassidy's habeas petition. But as to Ms. Batson, the Eleventh Circuit held that, because the "state court checked the *nunc pro tunc* box on Batson's amended sentences,"[2] her amended judgment "did not restart the federal statute of limitations." App. 9a-10a.

Citing its decision in *Osbourne v. Secretary, Florida Department of Corrections*, the Eleventh Circuit stated that "'*the determining factor* as to whether the state court judgment is a "new judgment" for purposes of § 2244[] turns on the nunc pro tunc *designation*.'" App. 10a-11a (quoting *Osbourne*, 968 F.3d 1261, 1266-67 & n.4 (11th Cir. 2020)). In Ms. Batson's case, because "[t]he amended sentences' *nunc pro tunc* designation relates back to Batson's original judgment, . . . the statute of limitations did not reset." App. 10a. The court made this determination despite acknowledging that the state trial court did not enter the amended judgment itself *nunc pro tunc*. App. 9a ("The state court checked the *nunc pro tunc* box on Batson's amended sentences but not on her amended judgment.").

As to Mr. Cassidy, the court held: "Because the state court did not issue Cassidy's amended judgment . . . *nunc pro tunc*, *Osbourne* does not limit the scope of

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[2] Ms. Batson does not concede that the state court entered her amended judgment *nunc pro tunc*. That designation appeared only on sentencing forms prepared by the clerk's office and not on the face of the amended judgment. If the state court did enter her judgment *nunc pro tunc*, that designation violated Florida law. *See infra* p. 19.

our review as to whether the amended judgment restarted the federal statute of limitations." App. 11a-12a. Therefore, "Cassidy's amended judgment constitutes a new judgment that restarted the federal statute of limitations under section 2244(d)(1)(A)." App. 12a. The Eleventh Circuit then affirmed the district court's denial of Ms. Batson's petition and vacated the denial of Mr. Cassidy's petition, remanding his case for further proceedings. App. 16a.

REASONS FOR GRANTING THE PETITION

I. THE CIRCUITS ARE SPLIT ON THIS ISSUE

The Eleventh Circuit's decision directly conflicts with the Sixth Circuit's holding in a case raising the same *nunc pro tunc* issue. It also conflicts with the Ninth Circuit's holding that a state trial court's order substantively amending a judgment restarts AEDPA's limitations period, even when the state court backdates that order.

A. The Eleventh Circuit's Ruling Conflicts With The Sixth Circuit's Holding In *Crangle v. Kelly*

The decision in Ms. Batson's case is in direct conflict with the Sixth Circuit's 2016 holding in an appeal with facts substantively identical to those here, creating unwarranted disparities in the application of federal habeas law. Like Ms. Batson, the petitioner in *Crangle v. Kelly*, 838 F.3d 673 (6th Cir. 2016) (per curiam), secured an amended judgment modifying his custodial sentence and argued that that judgment was the relevant order for Section 2244(d)(1)'s limitations period, not his original conviction. *Id.* at 675. And, as in Ms. Batson's case, the federal district court determined that the petitioner's amended judgment did not restart AEDPA's statute

of limitations because the state court entered that judgment "*nunc pro tunc*" to the original conviction. *Id.* at 676-77.

On appeal, the government "seiz[ed] on the fact that the [amended judgment] [wa]s labeled '*nunc pro tunc*,'" arguing that the order merely "effected the same judgment by a different name." *Id.* at 679-80. The Sixth Circuit disagreed, explaining that the amended judgment, which concerned post-release supervision, constituted "a material difference in Crangle's conditions of confinement." *Id.* at 680. As for the *nunc pro tunc* designation, the court noted that "[*n*]*unc pro tunc* orders are customarily used only 'to correct erroneous records,' not to 'revise the substance of what transpired or to backdate events.'" *Id.* (quoting *Kusay v. United States*, 62 F.3d 192, 193 (7th Cir. 1995)). Yet in *Crangle*, as here, the *nunc pro tunc* order was "not merely the correction of a clerical error"; rather, it changed the petitioner's custodial sentence. *Id.*

Relying on this Court's decision in *Magwood v. Patterson*, 561 U.S. 320 (2010), and its progeny, to determine whether the amended judgment reset AEDPA's limitations period, the Sixth Circuit looked past the state court's "label" to the function of that judgment. 838 F.3d at 680. Because the amended judgment "changed the substance of [the petitioner's] sentence," it "amounted to a new judgment" that restarted the limitations clock. *Id.* As for the *nunc pro tunc* designation, the court held that "[a] state court's decision to affix the label *nunc pro tunc* to an order does not control the federal question[] [of] whether the order changes [a petitioner's] conditions of confinement." *Id.*

Ms. Batson's case warrants the same result. The Eleventh Circuit erred by ignoring whether her amended judgment changed her conditions of confinement—the relevant question for AEDPA's statute of limitations—and instead looking to the state trial court's *nunc pro tunc* label as "*the determining factor* as to whether the state court judgment is a 'new judgment'" for AEDPA purposes. App. 10a. While the *Crangle* court held that an amended judgment imposing post-release control constituted a new judgment resetting the statute of limitations, here, the Eleventh Circuit came to the opposite conclusion—even though Ms. Batson's amended judgment vacated an unconstitutional count of her conviction and the corresponding 30-year sentence. That disrupts the uniform application of federal habeas law and is fundamentally unfair.

B. The Eleventh Circuit's Ruling Conflicts With The Ninth Circuit's Holding In *Gonzalez v. Sherman*

The Eleventh Circuit's ruling also conflicts with the Ninth Circuit's decision in a habeas case raising an analogous issue. In *Gonzalez v. Sherman*, 873 F.3d 763 (9th Cir. 2017), the government argued that a state trial court's amended judgment was a *nunc pro tunc* order because the state court had "directed the award of custody credits amended 'as of the original sentencing date.'" *Id.* at 772. The Ninth Circuit rejected that theory.

Explaining that the state court could not effect "a substantive change in the judgment" via a *nunc pro tunc* order, the Ninth Circuit held that the state court's backdating of the judgment was "of no moment" for AEDPA purposes. *Id.* at 773. The contents of the amended judgment, not its label or its date, determine its effect

under federal law. While the "order was retroactive in the sense that the duration of time served was to be calculated from the date of the original judgment, rather than from the date of the amendment," "the amendment to the judgment was clearly a new judgment under *Magwood*." *Id.*

Like the petitioner in *Gonzalez*, Ms. Batson, too, secured a new judgment that should have reset the federal limitations period for her habeas petition.

II. THE DECISION BELOW CONFLICTS WITH THIS COURT'S PRECEDENT AND IS INCORRECT

In effect, the Eleventh Circuit's ruling makes state courts the arbiters of the statute of limitations for federal habeas petitions: by entering an amended judgment *nunc pro tunc*, state courts can prevent petitioners from securing federal habeas relief. That is error. No matter how a state trial court labels an amended judgment, if the judgment changes a petitioner's conviction or custodial sentence, it resets the federal statute of limitations period.

A. The Eleventh Circuit's Holding Improperly Interprets Federal Habeas Law By Reference To State Law

A federal statute's interpretation does not depend on the State in which it is applied. As this Court held more than 80 years ago, "we must generally assume, in the absence of a plain indication to the contrary, that Congress when it enacts a statute is not making the application of the federal act dependent on state law" because "the application of federal legislation is nationwide." *Jerome v. United States*, 318 U.S. 101, 104 (1943); *accord Taylor v. United States*, 495 U.S. 575, 591 (1990); *Liner v. Jafco, Inc.*, 375 U.S. 301, 308 (1964). Federal law requires a uniform federal interpretation. "Otherwise," the same law "might be applied by the federal

courts one way in Virginia and another way in California." *Williams v. Taylor*, 529 U.S. 362, 389 (2000) (plurality). The Eleventh Circuit's decision creates just that result.

The Eleventh Circuit's approach is irreconcilable with this Court's AEDPA precedent, which requires uniform federal standards for habeas petitioners. In *Gonzalez v. Thaler*, for example, the Court clarified that the term "final" in Section 2244(d)(1)(A) must be interpreted uniformly across the nation, not by reference to state law. 565 U.S. 134, 149-50 (2012). The issue in *Gonzalez* was whether "the judgment became final," and thus AEDPA's limitations period began to run, (1) when the petitioner's time for seeking discretionary review from the State's highest court for criminal appeals expired or (2) roughly six weeks later, when the state intermediate appellate court's mandate issued. *Id.* at 150-51, 153.

Gonzalez argued that, because he did not seek certiorari from Texas's highest court, the date on which his judgment became final "is the date on which state law marks finality—in Texas, the date on which the mandate issues." *Id.* at 151. The Court flatly rejected the notion that a federal court must "scour each State's laws and cases to determine" the meaning of "final" in Section 2244(d)(1)(A). *Id.* at 152. Noting that "usher[ing] in state-by-state definitions of the conclusion of direct review" would "pose serious administrability concerns," the Court concluded instead that finality requires a "uniform definition" applicable nationwide. *Id.* at 152-53.

The courts of appeals have echoed this call for uniformity in the application of federal habeas law. *See*, *e.g.*, *Miller v. Hooks*, 749 F. App'x 154, 160 (4th Cir. 2018) ("[W]e should not subject AEDPA to the vagaries of state law beyond examining state

filing deadlines."); *Camacho v. Hobbs*, 774 F.3d 931, 934 (8th Cir. 2015) (describing "Congress's intent under AEDPA to define 'finality . . . by reference to a uniform federal rule' and not 'by reference to state-law rules that may differ from the general federal rule and vary from State to State'") (citations omitted, ellipsis in original); *Summers v. Schriro*, 481 F.3d 710, 714 (9th Cir. 2007) (interpreting Section 2244(d)(1)(A) "by reference to uniform federal law").

Here, however, the Eleventh Circuit determined that whether the amended judgment Ms. Batson secured in 2017 qualifies as a new judgment that resets Section 2244(d)(1)(A)'s limitations period "turns" on how the *state court* labeled that judgment. App. 10a. More specifically, if a state court enters an amended judgment *nunc pro tunc*, no matter the substance of that decision, it automatically relates back to the original conviction and cannot reset AEDPA's clock. Even when (as here) the judgment changes a petitioner's convictions and her custodial sentence, the court held the *nunc pro tunc* label is determinative.

The role for state law in AEDPA is limited. As the Court acknowledged in *Gonzalez v. Thaler*, a state court's reopening of a case or reversal under state law affects AEDPA's limitations period. 565 U.S. at 152. But the Eleventh Circuit's decision here goes much further, making it so that if a state court affixes a *nunc pro tunc* label to an amended judgment, no matter what that judgment says or when it is entered, a petitioner is prevented from seeking federal habeas relief. That cannot be right. *Cf. Brown v. United States*, 890 F.2d 1329, 1341 (5th Cir. 1989) ("It is axiomatic that federal law controls the interpretation of federal statutes and regulations.").

B. Federal Courts Applying A Federal Statute Must Look To The Function Of A State Trial Court's Order, Not Its Label

The Eleventh Circuit's holding in Ms. Batson's case relied on the court's previous decision in *Osbourne v. Secretary, Florida Department of Corrections*, 968 F.3d 1261 (11th Cir. 2020). The court determined that *Osbourne*—a case decided without argument and one in which the petitioner did not challenge the *nunc pro tunc* designation—"requires us to defer to the state court's designation of Batson's amended sentences as *nunc pro tunc*," regardless of the propriety of that label and the contents of the judgment. App. 10a (discussing *Osbourne*, 968 F.3d at 1266-67). But federal habeas law is not governed by "the parlance of a particular jurisdiction." *Duncan v. Walker*, 533 U.S. 167, 177 (2001).

As this Court has instructed, when "applying a federal statute that interacts with state procedural rules," as AEDPA does, courts must "look to how a state procedure functions, rather than the particular name that it bears." *Carey v. Saffold*, 536 U.S. 214, 223 (2002); *cf. Richfield Oil Corp. v. State Bd. of Equalization*, 329 U.S. 69, 72 (1946) (in determining federal jurisdiction to review a state court's judgment, court must look to the function and "effect" of that judgment, not how the state court chooses to "designat[e]" it). Federal courts applying AEDPA should not take what the state court said it was doing "as an absolute bellwether" for what its order actually does. *Carey*, 536 U.S. at 226.

Decisions from the courts of appeals echo this instruction. *See, e.g.*, *Branham v. Montana*, 996 F.3d 959, 964 (9th Cir. 2021) ("the label a State attaches to a [postconviction] proceeding is not controlling" for purposes of federal habeas law);

Graham v. Borgen, 483 F.3d 475, 479 (7th Cir. 2007) (stating, in a Section 2244(d)(1)(A) case, that a state court's "title and labels, although helpful, are far from dispositive"). Even the Eleventh Circuit itself has recognized that the "label" a State attaches to postconviction proceedings "is of no moment" for AEDPA purposes. *Danny v. Secretary, Florida Dep't of Corr.*, 811 F.3d 1301, 1304 (11th Cir. 2016). The court failed to follow that holding here.

This precedent compels the conclusion that, no matter how a state trial court labels an order amending a petitioner's conviction or custodial sentence, such an order restarts AEDPA's limitations period. That is because the statute of limitations is tied to the finality of "the judgment" authorizing the petitioner's "custody." 28 U.S.C. § 2244(d)(1). Only one judgment at a time can authorize an individual's confinement. Therefore, when a petitioner secures a new, amended judgment, that supersedes her original conviction to become "the judgment" authorizing her confinement—and "the judgment" from which the statute of limitations runs.

The Eleventh Circuit's approach, by contrast, requires courts to defer to a state court's designation of a judgment as *nunc pro tunc*, even when that designation is affixed to a judgment that substantively changes a petitioner's conviction and sentence, and even when that designation is in violation of state law.

C. Federal Courts Should Not Defer To A State Trial Court's Erroneous Interpretation Of State Law

1. Likewise, federal courts need not defer to a state trial court's interpretation of state law (such as the propriety of designating an order *nunc pro tunc*) in determining that order's effect under federal law. In *Commissioner v. Estate*

of Bosch, 387 U.S. 456 (1967), the Court addressed the issue of whether a federal court applying federal law must defer to a state trial court's decision, with reasoning instructive here.

Bosch concerned "what effect must be given a state trial court decree where the matter decided there is determinative of federal estate tax consequences." *Id.* at 462. The Court held that, "when the application of a federal statute is involved, the decision of a state trial court as to an underlying issue of state law" is not "controlling." *Id.* at 465. Only state law as articulated "by the highest court of the State is to be followed." *Id.*; *see also King v. Order of United Com. Travelers of Am.*, 333 U.S. 153, 161 (1948) (federal courts are not "bound by a decision which would not be binding on any state court" such as a state trial court's decision).

Numerous courts of appeals have adopted that holding—including the Eleventh Circuit itself. *See*, *e.g.*, *Fierro v. Reno*, 217 F.3d 1, 5 (1st Cir. 2000) ("[W]here federal law incorporates a state characterization, a state trial court's construction of state law is not binding on a federal court."); *United States v. White*, 853 F.2d 107, 114 (2d Cir. 1988) ("[W]hen the application of a federal statute is involved, . . . federal authorities may make an independent examination of the state law as determined by the highest court of the state.") (citation omitted); *Leggett's Est. v. United States*, 418 F.2d 1257, 1258 (3d Cir. 1969) (similar); *Brown*, 890 F.2d at 1342 (similar); *Dennis v. Railroad Ret. Bd.*, 585 F.2d 151, 153 (6th Cir. 1978) (holding that a state trial court decision is not "binding . . . upon a federal tribunal that must determine state law in interpreting a federal statute"); *Estate of Kraus v. Commissioner*, 875 F.2d 597, 600 (7th Cir. 1989) ("[O]nly the state's highest court can make a ruling on state law that

binds the federal courts."); *Johnson v. Riddle*, 305 F.3d 1107, 1118 (10th Cir. 2002) (holding that district court erred by "regard[ing] itself as bound by unpublished state trial court decisions" and explaining that, "[w]hen the federal courts are called upon to interpret state law, the federal court must look to the rulings of the highest state court"); *Brown v. Nichols*, 8 F.3d 770, 773 (11th Cir. 1993) ("[i]n applying state law," a federal court is "bound to follow the decisions of a state's highest court").

While *Bosch* is most often applied in cases concerning federal taxation, its logic extends to other areas in which "federal and state law are tightly intertwined," such as habeas proceedings. *Brown*, 890 F.2d at 1341. In such cases, courts "must be careful to consider the substance of the rights state law provides, not merely the labels the State gives these rights or the conclusions it draws from them." *United States v. Craft*, 535 U.S. 274, 279 (2002). Just as this Court has deemed "state law labels . . . irrelevant to the federal question of which bundles of rights constitute property that may be attached by a federal tax lien," so, too, are state-law labels irrelevant to whether an order constitutes a new judgment under Section 2244(d)(1)(A). *Id.*; *cf. Sharma v. Taylor*, 50 F. Supp. 3d 749, 758 (E.D. Va. 2014) (holding, in the immigration context, that "[w]hatever the force of the *nunc pro tunc* order within the [State], a state . . . order does not control federal . . . decisions or policy").

The Eleventh Circuit violated that principle here. Relying on its decision in *Osbourne*, the court willfully blinded itself to Florida law as articulated by that State's highest court.

2. Florida's Supreme Court instructs that *nunc pro tunc* orders "correct clerical mistakes" in existing judgments, such as a misspelled name or inverted number. *Railroad Ricou & Sons Co. v. Merwin*, 113 So. 745, 746 (Fla. 1927); *see De Baun v. Michael*, 333 So. 2d 106, 108 (Fla. Dist. Ct. App. 1976) (per curiam) ("It has long been settled that the function of an entry Nunc pro tunc is to correct the record to reflect a prior ruling made in fact but defectively recorded.").

When a Florida court wishes to revise an order "in any material way," however, entry *nunc pro tunc* is inappropriate. *Maxfly Aviation Inc. v. Capital Airlines Ltd.*, 843 So. 2d 973, 975 (Fla. Dist. Ct. App. 2003); *accord D.M. v. State*, 580 So. 2d 634, 635 (Fla. Dist. Ct. App. 1991) (holding that a *nunc pro tunc* order may "not [refer] to a new or de novo decision"). That is what happened here: the state court changed Ms. Batson's sentence and removed her unconstitutional conviction. Even if the trial court did enter the order *nunc pro tunc*, such a designation violated Florida law as articulated by the State's Supreme Court. *Nunc pro tunc* designations that "exceed[] the scope of the proper purposes for which a nunc pro tunc order can be issued" have no legal effect. *D.M.*, 580 So. 2d at 635-36; *see Gilliam v. State*, 801 So. 2d 996, 997 (Fla. Dist. Ct. App. 2001); *Carridine v. State*, 721 So. 2d 818, 819 (Fla. Dist. Ct. App. 1998) (per curiam) (collecting cases and holding that order improperly designated *nunc pro tunc* "could not be given *nunc pro tunc* effect").

Therefore, the Eleventh Circuit should have disregarded the *nunc pro tunc* designation in this case. By failing to do so, the court misapplied both state and federal law.

III. THE ELEVENTH CIRCUIT'S DECISION CREATES PERVERSE RESULTS IN AN IMPORTANT AREA OF FEDERAL LAW

The Eleventh Circuit's decision in this case arbitrarily prevents habeas petitioners with the most meritorious claims—those who, like Ms. Batson, secured partial postconviction relief—from exercising their constitutional right to have their petitions reviewed by a federal court. The petitioners most affected by the Eleventh Circuit's ruling are those who successfully have secured an amended judgment. The court's decision punishes petitioners who have done everything right and diligently pursued state-law remedies before coming to federal court. And it leads to strange results.

According to the Eleventh Circuit, no matter what an amended judgment says, if a state court labels that judgment *nunc pro tunc*, it cannot restart the statute of limitations. Thus, a petitioner whose amended judgment was designated *nunc pro tunc* will be barred from federal habeas relief, while a petitioner with a substantively *identical* judgment without those three words may secure it. Here, despite the fact that Ms. Batson's amended judgment changed her custodial sentence and vacated a conviction that violated her double jeopardy rights, the *nunc pro tunc* designation prevents her limitations period from restarting. In Mr. Cassidy's case, by contrast, the opposite is true, solely because the court determined that his amended judgment was not entered *nunc pro tunc*.

The Eleventh Circuit's approach places life-altering consequences on a state court's pragmatic decision to backdate a judgment, ignoring the practical realities of how courts enter amended judgments. An amended judgment that, like Ms. Batson's,

alters a petitioner's custodial sentence once she is in custody must account for time served. In trying to accomplish this, state courts might very well reason that backdating the amended judgment or labeling it *nunc pro tunc* is the best way to ensure it has retroactive effect.

Indeed, courts in the Eleventh Circuit have already applied the rule articulated in Ms. Batson's case at least five times, barring habeas relief in each case. *See Viverette v. Secretary, Dep't of Corr.*, 2025 WL 959162, at *2 (M.D. Fla. Mar. 31, 2025) ("Because the amended sentences in Petitioner's case were imposed *nunc pro tunc* to the original judgment date, the judgment entered on December 3, 2020, is not a new judgment that Petitioner may challenge . . . ."); *Funk v. Secretary, Dep't of Corr.*, 2025 WL 744264, at *4 (M.D. Fla. Mar. 7, 2025) ("Because the trial judge imposed the amended judgment in Funk's case *nunc pro tunc* to the date of the original judgment, the amended judgment is not a new judgment that Funk may challenge . . . .") (citation omitted); *Sampson v. Secretary, Dep't of Corr.*, 2025 WL 605603, at *3 n.5 (M.D. Fla. Feb. 25, 2025) ("Mr. Sampson was resentenced in July 2021, but that did not restart the AEDPA clock because the amended judgment was entered '*nunc pro tunc*' to . . . the date of the original sentencing."); *Spivey v. Secretary, Dep't of Corr.*, 2025 WL 435906, at *2 (M.D. Fla. Jan. 29, 2025) ("The amended judgment was entered *nunc pro tunc* to the date of the original judgment. Consequently, the amended judgment was not a 'new judgment' and did not reset the limitation period.") (citation omitted); *Williams v. Dixon*, 2024 WL 5286251, at *2 (N.D. Fla. Dec. 9, 2024) ("The state court's *nunc pro tunc* designation relates back to Petitioner's original judgment and, therefore, the federal clock for the one-year limitations period did not

reset."), *report and recommendation adopted*, 2025 WL 35052 (N.D. Fla. Jan. 6, 2025) (all citing App. 9a-11a).

The Eleventh Circuit's decision already is barring habeas petitioners from federal court, and further percolation will only cause more petitioners to be deprived of their constitutional right to habeas review. The Court should act now to reverse the Eleventh Circuit's holding.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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