**No. _____-**
**IN THE SUPREME COURT OF THE UNITED STATES**

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KAYLE BARRINGTON BATES,

*Petitioner,*

v.

RICKY D. DIXON, SECRETARY,
FLORIDA DEPARTMENT OF CORRECTIONS

*Respondent.*

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*On Petition for Writ of Certiorari to the*
*Eleventh Circuit Court of Appeals*

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# APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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**CAPITAL CASE**
**EXECUTION SCHEDULED**
**FOR**
**TUESDAY, AUGUST 19, 2025, AT 6:00PM ET**

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## INDEX TO APPENDIX

A

Eleventh Circuit Order

Denying Certificate of Appealability and

Motion for Stay of Execution

August 1, 2025

In the

# United States Court of Appeals

## For the Eleventh Circuit

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No. 25-12588

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KAYLE BARRINGTON BATES,

Petitioner-Appellant,

*versus*

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent-Appellee.

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Appeal from the United States District Court
for the Northern District of Florida
D.C. Docket No. 5:09-cv-00081-MCR

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Before WILLIAM PRYOR, Chief Judge, and NEWSOM and GRANT, Circuit Judges.

PER CURIAM:

Kayle Barrington Bates moves for a certificate of appealability and for a stay of his execution scheduled for August 19, 2025. After careful review, we deny both motions.

In 1983, a Florida jury convicted Bates of murder, kidnapping, attempted sexual battery, and armed robbery, and he was sentenced to death. In 2009, after various post-conviction proceedings in state court, Bates brought a habeas corpus petition in the district court. In 2012, the district court denied his petition. Bates appealed, and, in 2014, this Court affirmed the district court's denial of his petition for habeas relief. *Bates v. Sec'y, Fla. Dep't of Corr.*, 768 F.3d 1278 (11th Cir. 2014).

Last month, Bates filed a Rule 60(b)(6) motion asking the district court to reopen his habeas proceeding and reanalyze his claims without applying the deferential standard of review prescribed by the Antiterrorism and Effective Death Penalty Act, 28 U.S.C. § 2254. According to Bates, AEDPA's mandate that federal courts defer to state-court decisions was rendered unconstitutional by the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). Along with his Rule 60(b)(6) motion, Bates also moved to stay his execution. The district court denied both his Rule 60(b)(6) motion and his motion to stay. Bates then moved for a COA on the question whether *Loper Bright* rendered AEDPA deference unconstitutional. The district court denied this motion, as well.

Bates now asks us for a COA to appeal the district court's denial of his Rule 60(b)(6) motion and his motion to stay. He also seeks a stay of his execution pending our disposition of these proceedings.

We may issue a COA "only if [Bates] has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To do so, Bates "must show that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner." *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (citation modified). Put simply, "[t]he COA inquiry asks only if the District Court's decision was debatable." *Id.* at 348.

We hold that the district court's decision here—specifically, its rejection of Bates's argument that *Loper Bright* has rendered AEDPA deference unconstitutional—is not debatable. At bottom, the Supreme Court's decision in *Loper Bright* is an interpretation of the Administrative Procedure Act—not the Constitution. *See, e.g.*, *Loper Bright*, 603 U.S. at 396 ("The deference that *Chevron* requires of courts reviewing agency action cannot be squared with the APA."); *id.* at 406 ("*Chevron*'s fictional presumption of congressional intent was always unmoored from the APA's demand that courts exercise independent judgment in construing statutes administered by agencies."); *id.* at 407 ("*Chevron* has proved to be fundamentally misguided. Despite reshaping judicial review of agency action, neither it nor any case of ours applying it grappled with the APA—the statute that lays out how such review works."); *id.* at 412

("Courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority, as the APA requires."). To the extent that the Court discussed the Constitution at all in *Loper Bright*, it did so only to provide historical background for the general principle that Article III courts must "exercise [their] judgment independent of influence from the political branches." *See id.* at 385 (emphasis added); *see also id.* at 384–87. *Loper Bright*'s observations about the relationship between the Article III judiciary and the "political branches" have no bearing on Bates's argument here, which pertains to the deference that AEDPA requires federal habeas courts to give state courts' decisions. Accordingly, Bates is mistaken that *Loper Bright* rendered AEDPA deference unconstitutional, and the district court was correct to reject his argument.

For this reason we **DENY** Bates's motion for a COA. And because his COA motion is denied, we **DENY AS MOOT** his motion to stay his execution.

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

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

August 01, 2025

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Appeal Number: 25-12588-P
Case Style: Kayle Barrington Bates v. Secretary, Florida Department of Corrections
District Court Docket No: 5:09-cv-00081-MCR

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

B

District Court Order

Denying Application for Certificate of Appealability

July 29, 2025

**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF FLORIDA**
**PANAMA CITY DIVISION**

KAYLE BARRINGTON BATES,

Petitioner

v.

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent

Case No.: 5:09-cv-00081-MCR
**CAPITAL CASE**
**Execution Scheduled for August 19, 2025, at 6:00 p.m.**

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## ORDER

Petitioner, Kayle Barrington Bates, is a Florida prisoner under an active death warrant. His execution is scheduled for August 19, 2025. On June 27, 2025, he filed a Rule 60(b)(6) motion to reopen his 16-year-old § 2254 petition for habeas corpus. The motion was based on his claim that when the Supreme Court explicitly overturned "*Chevron* deference" in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), it implicitly overturned "AEDPA deference" as well.[1]

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[1] In *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984), the Supreme Court held that Article III courts must defer to "reasonable" agency interpretations of ambiguous federal statutes. *Loper Bright* overturned *Chevron* on this point and concluded that federal courts should exercise "independent judgment" in deciding whether an agency acted within its statutory authority, without any deference to the agency's interpretation of the statute "simply because a statute is ambiguous." 609 U.S. at 412–13. Bates has argued that the deference mandated by the Antiterrorism and Effective Death Penalty Act (AEDPA)—that is, no claim adjudicated on the

By order dated July 24, 2025, the Court denied the Rule 60(b) motion. ECF No. 65. Bates has now filed an Emergency Motion for Certificate of Appealability, ECF No. 66. Respondent, Florida Department of Corrections (Florida DOC), has responded in opposition. ECF No. 67.

Under 28 U.S.C. § 2253(c)(2), a COA may be issued in a habeas case "only where a petitioner has made a 'substantial showing of the denial of a constitutional right.'" *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (quoting § 2253(c)). To meet this standard, "a petitioner must 'sho[w] that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" *Id.* (citations omitted). "The COA inquiry asks only if the District Court's decision was debatable." *Id.* at 348. Petitioner has not made this showing.

As noted in the Court's order denying Bates's Rule 60(b)(6) motion, the *Loper Bright* argument has already been considered by several courts (including one Court of Appeals), and it has been rejected by each one. *Miles v. Floyd,* No. 24-1096,

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merits in state court will be eligible for federal habeas relief unless it was "contrary to, or involved an unreasonable application of, clearly established Federal law," 28 U.S.C. § 2254(d)(1)—is "fundamentally the same" as *Chevron* deference, so the Supreme Court's invalidation of the latter necessarily invalidated the former.

2025 WL 902800, at *3 (6th Cir. Mar. 25, 2025); *Piper v. Jackley*, No. 5:20-cv-05074-RAL, 2025 WL 889374, at *18 (D.S.D. Mar. 21, 2025); *Smith v. Thornell*, No. CV-12-00318-PHX-ROS, 2025 WL 563453, at *4 (D. Ariz. Feb. 20, 2025). The Court does not believe that reasonable jurists could debate whether Bates's Rule 60(b)(6) motion should have been resolved in a different manner or whether the issues raised deserve encouragement to proceed further. As Florida DOC argued in its opposition to both the Rule 60(b)(6) motion and the motion for a COA, the foundational premise of Bates's *Loper Bright* argument is flawed because it proceeds on the mistaken assumption that *judicially created* deference to administrative officials in *Chevron* is analogous to *statutorily created* deference to co-equal state court judges in the AEDPA. The Court agrees and does not believe the issue is "debatable amongst jurists of reason." *Miller-El*, 537 U.S. at 336.[2]

[2] The Court is aware that several courts have either granted COAs on this issue or allowed supplemental briefing in already-pending appeals, including in the Eleventh Circuit. Nevertheless, the undersigned concludes the issue is beyond debate and fails to meet the standard for a COA. Indeed, Bates's argument presupposes the Supreme Court overruled AEDPA deference in *Loper-Bright,* but the same Supreme Court has confirmed the continued applicability of AEDPA deference after the decision. *Andrew v. White*, 604 U.S. ---, 145 S. Ct. 75, 80-83 (2025) (noting "[a] federal court may grant habeas relief as to a claim adjudicated on the merits in state court *only* if the state court relied on an unreasonable determination of the facts or unreasonably applied 'clearly established Federal law,'" and referencing "the deference federal habeas courts *must* extend to a state court's" ruling; concluding "the Court of Appeals thus erred by refusing even to consider whether the [state court] unreasonably applied established" federal law) (emphasis added). It is difficult to see how a District Court—or a Court of Appeals, for that matter—could possibly decide that *Loper Bright* overruled AEDPA deference when the Supreme Court itself is still applying it post-*Loper Bright.* Moreover, even if Bates could meet that hurdle,

Bates's Emergency Motion for Certificate of Appealability, ECF No. 66, must be, and is, **DENIED**.

**DONE AND ORDERED** this 29th day of July, 2025.

*M. Casey Rodgers*

**M. CASEY RODGERS**
**UNITED STATES DISTRICT JUDGE**

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he would face the additional high burden of showing that the Supreme Court intended *Loper Bright* to be applied *retroactively* in the death penalty habeas context, despite its clear statement that the change in "interpretive methodology" announced in *Loper Bright* does not call into question prior cases that relied on *Chevron* deference. 603 U.S. at 412.