

IN THE SUPREME COURT OF THE UNITED STATES

Anthony Boyd, AIS Z-578,

Petitioner,

v.

Kay Ivey, Governor of Alabama, in her official capacity;
Steve Marshall, Attorney General of Alabama, in his official capacity,

Respondents.

EMERGENCY PETITION FOR WRIT OF CERTIORARI AND APPLICATION FOR STAY OF
EXECUTION

Execution scheduled for October 23, 2025

QUESTIONS PRESENTED
(CAPITAL CASE)

1. Whether the Eleventh Circuit erred barring a condemned inmate from filing pro se while represented elsewhere in violation of the federal right of access to the courts, the Alabama Constitution's guarantee of appearance "by himself or counsel, or both," and the privileges and immunities of citizenship under the U.S. Constitution.
2. Whether a state's structural reassignment of judicial power to the executive, in violation of its own statutes, gives rise to a cognizable federal due process claim under § 1983.
3. Whether Alabama's 2023 execution procedure—transferring from the courts to the Governor the exclusive authority to set execution dates—violates the Fourteenth Amendment's Due Process Clause by dismantling the State's judicial safeguard and creating an unconstitutional fusion of executive and judicial powers.
4. Whether Ex parte Young, 209 U.S. 123 (1908), permits prospective federal relief to prevent state officials from enforcing an unconstitutional execution procedure that exceeds their lawful authority.

5. Whether the Eleventh Circuit's summary denial of a stay of execution, relying solely on *Barwick v. Secretary, Florida Department of Corrections*, 84 F.4th 1230 (11th Cir. 2023), without analysis of the four *Nken v. Holder*, 556 U.S. 418 (2009), factors, conflicts with decisions of other circuits and this Court's precedents requiring a reasoned balancing of those factors before denying relief in capital cases.

II. JURISDICTION

The Eleventh Circuit denied a stay of execution and dismissed the appeal on October 20, 2025, in *Boyd v. Ivey*, No. 25-13573. This Court has jurisdiction under 28 U.S.C. § 1254(1).

III. INTRODUCTION

This case concerns a structural violation of the Constitution. In 2023, the Alabama Supreme Court amended Rule 8(d)(1) of its Appellate Rules to authorize the Governor—an executive officer who also holds the exclusive clemency power—to set execution dates. That act displaced a judicial function long reserved to the courts under Ala. Code § 15-18-82(a), which provides that “the court shall ... set the date of execution.”

The Governor subsequently fixed Anthony Boyd's execution date for October 23, 2025. No court has ever reviewed that procedure for constitutionality. Boyd's life is now at stake under an executive act that the Alabama Constitution forbids.

IV. STATEMENT OF THE CASE

1. *State Proceedings.* Boyd was sentenced to death in 1995. For decades, Alabama courts—consistent with § 15-18-82(a)—set execution dates by judicial order. In 2023, however, the Alabama Supreme Court transferred that authority to the Governor.

2. *Federal Proceedings.* Boyd filed a pro se § 1983 complaint alleging that the Governor's assumption of this judicial power violated due process and the separation of powers. The district court dismissed the complaint and denied a stay, treating it as a “state-law” issue barred by sovereign immunity.

3. *Eleventh Circuit.* The panel denied relief, holding that Boyd could not “simultaneously” proceed pro se because counsel represents him in an unrelated § 1983 case about the method of execution. The panel expressly did not reach whether the Governor's actions violated *Ex parte Young* or federal due process—stating only that Boyd had “not identified” such a right. Which he clearly had.

V. REASONS FOR GRANTING THE WRIT

1. The Eleventh Circuit's ruling conflicts with Supreme Court precedent protecting pro se access in capital cases.

The Eleventh Circuit barred Boyd's filing as impermissible "hybrid representation." But this Court has never held that capital prisoners lose the right to personally assert constitutional claims distinct from counsel's.

The Eleventh Circuit's reliance on *Lee v. Alabama*, 406 F.2d 466 (5th Cir. 1968), and its local Rule 25-1 misapprehends both the purpose of 28 U.S.C. § 1654 and the constitutional nature of Boyd's filing. *Lee* stands only for the uncontroversial proposition that a defendant has no right to simultaneous hybrid representation in the same proceeding. Boyd's situation is categorically different. He did not attempt to file pleadings in his counseled nitrogen-method case. Rather, he filed a separate civil action raising a distinct structural-constitutional claim—one his appointed counsel expressly refused to bring. The right recognized in § 1654 allows "parties may plead and conduct their own cases personally or by counsel." That disjunctive language ("or") guarantees that an individual may proceed pro se when counsel is unwilling to assert a claim necessary to protect fundamental rights. It does not require that the individual forfeit all independent access to the courts merely because other counsel are litigating an unrelated issue elsewhere.

Capital defendants retain an unqualified right of access to the courts to present constitutional claims, particularly where counsel's inaction would otherwise foreclose review of a life-or-death issue. See *Bounds v. Smith*, 430 U.S. 817, 821 (1977); *Faretta v. California*, 422 U.S. 806, 819 n.15 (1975) (the Sixth Amendment embodies a personal right to self-representation where counsel's position diverges from the defendant's). A local filing rule such as 11th Cir. R. 25-1 cannot override the federal constitutional guarantee of access to the courts, nor can it justify extinguishing a condemned prisoner's ability to prevent an unlawful execution. The "hybrid representation" rule was designed for trial management, not for cases where counsel's refusal leaves constitutional claims unheard. To extend *Lee* that far transforms a rule of procedural convenience into a barrier to life-saving judicial review—an outcome no due-process system can tolerate.

Indeed, this Court has recognized that where fundamental rights are at stake, procedural restrictions must yield to the constitutional imperative that every litigant have "a meaningful opportunity to be heard." *Boddie v. Connecticut*, 401 U.S. 371, 377 (1971). Boyd's pro se filing did not undermine his counsel's representation in another case; it was the only means available to prevent an imminent constitutional wrong. The Eleventh Circuit's invocation of *Lee* to bar that access converts a tool of judicial efficiency into a vehicle for constitutional avoidance—and directly conflicts with this Court's access-to-courts jurisprudence.

In *Faretta v. California*, 422 U.S. 806 (1975), and *McKaskle v. Wiggins*, 465 U.S. 168 (1984), the Court recognized that a defendant retains ultimate control over his defense and may act pro se when counsel's interests diverge. Here, Boyd's appointed counsel refused to include this

structural challenge in their separate § 1983 case, leaving him no representation on a claim that goes to the heart of due process.

To deny a death-sentenced inmate the ability to raise such a claim *pro se*—while the State proceeds toward execution—is to deprive him of any access to a judicial forum at all. That result conflicts with *Haines v. Kerner*, 404 U.S. 519 (1972) (*pro se* pleadings in life-and-liberty cases must be liberally construed), and *Bounds v. Smith*, 430 U.S. 817 (1977) (right of access to courts).

A. Alabama Constitution Art. I, §10

The Alabama Constitution provides:

“That no person shall be barred from prosecuting or defending before any tribunal in this state, by himself or counsel, or both.”

This language explicitly authorizes simultaneous self-representation and representation by counsel.

By refusing to accept Boyd’s *pro se* filing, the courts below nullified that guarantee and closed the courthouse doors to a condemned prisoner seeking to raise a distinct constitutional claim that his counsel refused to bring.

B. Federal Right of Access and Privileges of Citizenship

The right to access courts is a fundamental privilege of citizenship protected by both Article IV and the Fourteenth Amendment.

As this Court recognized in *Chambers v. Baltimore & Ohio R.R. Co.*, 207 U.S. 142, 148 (1907), “The right to sue and defend in the courts is the alternative of force. In an organized society it is the right conservative of all other rights.”

By enforcing a rule that prohibits Boyd from filing *pro se* while counsel refuses to act, Alabama has denied him that privilege and violated the federal guarantee of meaningful access to judicial relief.

This deprivation also contravenes the Privileges and Immunities Clause of Article IV and the Privileges or Immunities Clause of the Fourteenth Amendment, which protect the rights of national citizenship against state interference

2. The separation-of-powers defect constitutes an ongoing federal due process violation.

The Due Process Clause protects not only substantive fairness but also the structure of lawful adjudication. When the executive seizes a judicial function—especially the power to impose or carry out death—due process is violated at its core.

The Eleventh Circuit's conclusion that Boyd's claim "is at bottom" a state-law dispute mischaracterizes the constitutional injury. Boyd's claim is not that Alabama failed to comply with a mere statute—it is that state officials, acting under color of state law, have stripped courts of their judicial role and thereby deprived him of federal due process. This Court has long held that when a state's deviation from its own legal structure "works a deprivation of a liberty interest protected by the Fourteenth Amendment," it states a cognizable federal claim. *Hicks v. Oklahoma*, 447 U.S. 343, 346 (1980). Where a state's procedures themselves define the process that is "due," a state's deliberate disregard of those procedures violates the Constitution. See also *Evitts v. Lucey*, 469 U.S. 387, 393 (1985); *Ford v. Wainwright*, 477 U.S. 399 (1986). Alabama's reassignment of a judicial function to the executive is not a routine state-law question—it is a structural violation that offends the federal constitutional guarantee of fair and impartial process.

The Eleventh Circuit's reliance on *Collins v. City of Harker Heights*, 503 U.S. 115 (1992), is misplaced. *Collins* involved a municipal tort claim alleging that the city had failed to provide a safe workplace for an employee—a negligence-type claim that did not implicate any fundamental liberty interest or structural constitutional guarantee. The Court in *Collins* expressly noted that it was addressing "a claim that the Due Process Clause should be interpreted to impose federal duties that are analogous to those traditionally imposed by state tort law," and held that such claims "are not of constitutional dimension." *Id.* at 128.

This case is categorically different. Boyd does not allege that the State failed to follow a procedural regulation or made a negligent administrative decision; he alleges that the executive branch has assumed a core judicial function—the power to set execution dates—in direct violation of both state law and the structural limits of the Constitution itself. Such a claim is grounded not in state tort principles, but in the very architecture of government the Constitution was designed to preserve.

This Court has long held that violations of structural constitutional safeguards do rise to the level of a federal constitutional violation, precisely because they implicate the distribution of power that protects individual liberty.

As this Court explained in *INS v. Chadha*, 462 U.S. 919, 946 (1983):

"The hydraulic pressure inherent within each of the separate Branches to exceed the outer limits of its power, even to accomplish desirable objectives, must be resisted. That resistance lies at the heart of the separation of powers."

Unlike in *Collins*, the violation here is not a mere state law deviation; it is an ongoing federal due process violation resulting from the executive's exercise of judicial power—a defect that undermines the fairness, neutrality, and reliability of the capital punishment process itself.

Federal courts have consistently recognized that when a state's action "so departs from the requirements of its own law as to constitute a denial of fundamental fairness," it crosses the constitutional threshold.

See *Hicks v. Oklahoma*, 447 U.S. 343, 346 (1980) (holding that state's failure to apply its own sentencing procedure violated federal due process because the defendant was deprived of a "liberty interest" created by state law).

By the same logic, Alabama's removal of the judiciary from the life-or-death decision of setting execution dates—contrary to § 15-18-82(a)—and the Governor's assumption of that power is a deprivation of liberty without due process of law.

The Eleventh Circuit's cursory invocation of *Collins* ignores that distinction and effectively insulates the most serious type of constitutional wrong—a structural breach that imperils both individual rights and the integrity of government itself.

In short: *Collins* bars tort-like claims seeking to constitutionalize negligence; it does not—and cannot—shield a State that executes individuals under a procedure created by unconstitutional usurpation of judicial power.

The Eleventh Circuit's reliance on *Knight v. Jacobson*, 300 F.3d 1272 (11th Cir. 2001), and *Widemon v. Shulman*, 2009 WL 1873658 (11th Cir. June 30, 2009), is similarly misplaced. Both cases dealt with ordinary state-law deviations or alleged procedural errors that did not implicate a fundamental constitutional structure or a liberty interest protected by the Fourteenth Amendment.

In *Knight*, the court rejected a claim that a police officer's violation of state arrest procedures constituted a federal due process violation. That holding rested entirely on the principle that "the Constitution does not guarantee due care on the part of state officials." *Id.* at 1276 (quoting *Daniels v. Williams*, 474 U.S. 327 (1986)). The claim in *Knight* was a routine procedural complaint arising from law enforcement discretion—it bore no resemblance to the structural violation at issue here, where the executive branch has seized a judicial function expressly reserved by statute and the Alabama Constitution.

Likewise, *Widemon* concerned a state agency's alleged mishandling of procedural rules in an employment context. The Eleventh Circuit there reaffirmed that simple errors of state procedure do not "automatically transmute" into federal constitutional violations. But *Widemon* involved no deprivation of life, no due process interest in the administration of capital punishment, and no structural breach of the separation of powers.

Here, the Governor's and Attorney General's actions are not mere "state procedural errors." They are ongoing acts of executive overreach that directly determine the timing of a person's death—acts that the legislature never authorized and that the Constitution explicitly forbids. Such conduct goes beyond state procedural irregularity; it constitutes the exercise of judicial power by the executive, a core violation of both due process and the federal principle of limited government.

As this Court recognized in *INS v. Chadha*, 462 U.S. 919, 946 (1983), “the separation of powers is not merely a matter of convenience or of governmental mechanism,” but “the absolutely central guarantee of a just Government.”

When a state abandons its own statutory and constitutional framework in matters of life and death, the violation transcends state law—it becomes a denial of federal due process and a breach of the structural protections that safeguard liberty for all citizens.

Knight and *Widemon* thus stand for the unremarkable proposition that not every procedural misstep is constitutional in dimension. But this case is about something far more grave: the executive’s assumption of judicial power to determine who shall live and who shall die. That is precisely the kind of structural and ongoing violation the Fourteenth Amendment forbids, and it cannot be dismissed under the shallow reasoning applied to routine administrative or procedural disputes.

The Eleventh Circuit’s reliance on *Johnson v. Collier*, 929 F.3d 944 (11th Cir. 2019), is also misplaced. In *Johnson*, the plaintiff challenged the state’s compliance with its own procedural rules regarding clemency and parole processes. The court held that such a claim did not rise to a federal constitutional violation because the inmate had no independent liberty interest in the procedures themselves.

That rationale cannot apply here for several reasons. First, *Johnson* addressed an internal administrative policy, not a structural reallocation of constitutional power among branches of state government. The question in *Boyd*’s case is not whether Alabama followed its rules correctly—it is whether the Governor and Attorney General have any constitutional authority at all to exercise a judicial function. That is a federal question of the highest order.

Second, *Johnson* expressly distinguished situations—like this one—where a procedural change “itself violates a constitutional provision.” *Id.* at 951. *Boyd*’s claim does not rest on a procedural irregularity, but on the executive branch’s seizure of a core judicial power in direct violation of both Article III, §43 of the Alabama Constitution and the Fourteenth Amendment’s Due Process Clause. Unlike *Johnson*, where the state acted within its constitutional authority, here the state actors are acting without such authority.

Third, *Johnson* involved no risk of an irreversible deprivation such as death. The Supreme Court has long held that “the finality of death is the most compelling justification for federal judicial intervention.” *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983). *Boyd*’s claim therefore implicates the highest liberty interest recognized in our legal system—the preservation of life under lawful process.

Finally, *Johnson* does not insulate state officials from federal review where, as here, their conduct creates an ongoing constitutional violation under *Ex parte Young*, 209 U.S. 123 (1908). The doctrine allows prospective relief against state officials acting unlawfully under color of state

law. The Governor's setting of execution dates without statutory or constitutional authority is precisely the type of *ultra vires* conduct that Young prohibits and that Johnson never addressed.

In short, *Johnson v. Collier* concerned a discretionary administrative process; Boyd's case concerns the destruction of the judicial function and the rule of law itself. The Eleventh Circuit's use of Johnson to bar review of an unconstitutional execution procedure elevates form over substance and leaves unchecked a structural violation that endangers both state and federal constitutional order.

This Court has long recognized that separation of powers "is not merely a matter of convenience or of governmental mechanism but of liberty itself." *INS v. Chadha*, 462 U.S. 919, 951–52 (1983). In *Bond v. United States*, 564 U.S. 211, 223 (2011), the Court reaffirmed that structural boundaries protect individual rights by preventing arbitrary government action.

Alabama's Rule 8(d)(1) obliterates that boundary: it gives the same officials who prosecute and defend convictions—the Attorney General and Governor—the power to select which condemned persons will die and when. That fusion of prosecutorial and judicial authority is anathema to due process.

3. Ex parte Young squarely authorizes prospective relief.

Under *Ex parte Young*, 209 U.S. 123 (1908), federal courts may enjoin state officials from enforcing unconstitutional acts. The Governor's setting of execution dates is "simply an illegal act upon the part of a state official," not a protected act of sovereignty. *Id.* at 159–60.

The Eleventh Circuit's reliance on *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89 (1984), is misplaced. Boyd does not ask federal courts to enforce state law; he asks them to prevent state officials from violating the federal Constitution by acting beyond lawful authority. See *Luckey v. Harris*, 860 F.2d 1012, 1015 (11th Cir. 1988) (Young allows suits to end ongoing federal violations).

4. The Eleventh Circuit's Denial Conflicts with *Nken* and *Hilton*, and Reflects a Broader Circuit Split Over the Application of Stay Factors in Capital Cases

The Eleventh Circuit denied Boyd's request for a stay of execution citing *Barwick v. Secretary, Florida Department of Corrections*, 84 F.4th 1230 (11th Cir. 2023), without engaging the merits of his constitutional claims or applying the four-factor analysis required under *Nken v. Holder*, 556 U.S. 418 (2009), and *Hilton v. Braunskill*, 481 U.S. 770 (1987).

Although the order spanned several pages, it did not evaluate Boyd's likelihood of success, the irreparable nature of the harm, the balance of equities, or the public interest—each a mandatory consideration under this Court's precedent. Instead, the panel relied on generalized references

to "last-minute litigation," disregarding the unique and ongoing structural defect Boyd challenged: the State's reassignment of a judicial function to the executive branch, resulting in an unconstitutional execution warrant.

Other circuits take the opposite approach, conducting detailed, individualized analyses even in time-sensitive capital cases. See, e.g., *In re Ohio Execution Protocol Litig.*, 860 F.3d 881, 886–88 (6th Cir. 2017) (en banc) (evaluating each Nken factor before denying a stay); *Beatty v. Brewer*, 649 F.3d 1071, 1072–73 (9th Cir. 2011) (same). This divergence creates an inequitable patchwork in which the availability of constitutional review in capital cases depends on the circuit of conviction.

Each Nken factor weighed decisively in Boyd's favor:

Likelihood of Success on the Merits – The Governor acted ultra vires, assuming a judicial power that Alabama law and Article III, § 43 of its Constitution expressly withhold from the executive.

Irreparable Harm – Execution is irreversible; the deprivation of life forecloses any later correction of a constitutional wrong.

Balance of Equities – The State has no legitimate interest in enforcing an unconstitutional act; equity favors preventing an unlawful execution.

Public Interest – The public's highest interest lies in the preservation of constitutional governance and the integrity of the rule of law.

By omitting this required analysis, the Eleventh Circuit departed from *Nken* and *Hilton*, eroding the uniformity of federal law and undermining confidence in the fairness of capital review. This Court's intervention is necessary to resolve that conflict and reaffirm that even in death cases, courts must apply consistent, reasoned scrutiny before allowing the ultimate punishment to proceed.

5. The violation is continuing, and the statute of limitations cannot bar review.

The Governor's ongoing authority to set and enforce execution dates constitutes a continuing constitutional violation. Each enforcement of that rule renews the injury and tolls any limitations period. See *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 380–81 (1982). The federal courts therefore retain jurisdiction to remedy this ongoing structural wrong.

6. Death is final, and equitable principles demand intervention.

Execution is irreversible. This Court has consistently held that "[a] stay of execution is an equitable remedy that must be granted when there is a significant possibility of success on the

merits." Barefoot v. Estelle, 463 U.S. 880, 893 (1983). Any procedural inconvenience to the State pales beside the permanent deprivation of life under an unconstitutional process.

A brief stay would not prejudice Alabama. It would merely permit correction of a constitutional defect before any execution proceeds—serving the interests of both justice and the State.

VI. CONCLUSION

The Eleventh Circuit's decision leaves a life-and-death constitutional question unresolved: Can the executive branch of a State lawfully set execution dates, usurping a judicial function, without violating due process?

This Court's review is essential to preserve the structural safeguards that underlie the rule of law.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

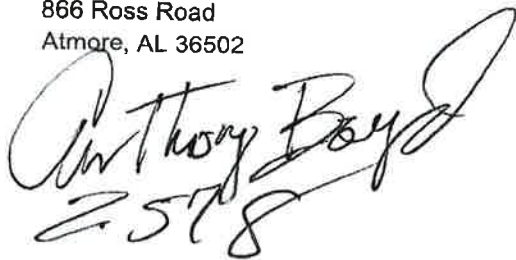
Grant a stay of execution pending resolution of this petition;

Grant certiorari to review the Eleventh Circuit's decision; and

Grant such other relief as may be just and proper.

Respectfully submitted,

Anthony Boyd, Pro Se
AIS Z-578
Holman Correctional Facility
866 Ross Road
Atmore, AL 36502

A handwritten signature in black ink that reads "Anthony Boyd" in a cursive script. Below the name, the number "2578" is written in a similar cursive style.

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-13573

ANTHONY BOYD,

Plaintiff-Appellant,

versus

GOVERNOR OF ALABAMA,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Alabama
D.C. Docket No. 2:25-cv-00764-ECM

Before JORDAN, LAGOA, and ABUDU, Circuit Judges.

PER CURIAM:

Anthony Boyd is scheduled to be executed in Alabama by nitrogen hypoxia on October 23, 2025. Through counsel, he filed a notice of appeal from the district court's denial of his motion for a preliminary injunction to stop his execution under 42 U.S.C. §

1983, and sought a stay of his execution in this court. In Case No. 25-13545, we have issued an order denying that motion. Our order sets out the procedural history of the case, the district court's findings and conclusions following an evidentiary hearing on Mr. Boyd's Eighth Amendment challenge to Alabama's nitrogen hypoxia protocol, and our analysis of the counseled motion for a stay.

Proceeding *pro se*, Mr. Boyd filed his own notice of appeal from the district court's denial of preliminary injunctive relief. That appeal was docketed as Case No. 25-13573. This order addresses Mr. Boyd's *pro se* motion for a stay of execution.

In his *pro se* motion, Mr. Boyd challenges the current version of Alabama Rule of Appellate Procedure 8(d)(1), which provides in relevant part that the Alabama Supreme Court "shall at the appropriate time enter an order authorizing the Commissioner of the Department of Corrections to carry out the inmate's sentence of death within a time frame set out by the governor, which time frame shall not begin less than 30 days from the date of the order[.]" He contends that Rule 8(d)(1) contravenes Alabama Code § 15-18-82(a), which states that "[w]here the sentence of death is pronounced against a convict, the sentence shall be executed at any hour on the day set for the execution, not less than 30 nor more than 100 days from the date of sentence, as the court may adjudge." He also asserts that Rule 8(d)(1) violates Article III, § 42(c)

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of the Alabama Constitution, which generally states that the executive branch shall not exercise judicial powers.¹

Mr. Boyd can obtain a stay of execution only if he shows that he has a substantial likelihood of success on the merits, that he will suffer irreparable harm unless the stay issues, that the stay would not substantially harm the other party, and that the stay would not be adverse to the public interest. *See Barwick v. Commissioner*, 66 F.4th 896, 900 (11th Cir. 2023). For two reasons, one procedural and one substantive, we deny Mr. Boyd's *pro se* motion for a stay.²

First, Mr. Boyd is currently represented by counsel, who filed a motion for a stay of execution on his behalf in Case No. 25-13545. Because he is represented, he cannot simultaneously proceed *pro se*. *See* 11th Cir. R. 25-1 ("When a party is represented by counsel, the clerk may not accept filings from the party."); *Lee v. Alabama*, 406 F.2d 466, 469 (5th Cir. 1968) ("Under [28 U.S.C. § 1654], Lee had a right to represent himself or be represented by counsel, but he had no right to a hybrid representation by himself and partly by counsel.").

Second, even if Mr. Boyd were permitted to proceed *pro se* while being represented by counsel, he has not shown a substantial likelihood of success on the merits of his claim. Mr. Boyd sued under § 1983, which protects against the "deprivation of any rights,

¹ In his *pro se* motion, Mr. Boyd cites to Alabama Constitution Article III, § 43, the previous codification of this provision.

² Mr. Boyd's motion to supplement the record is granted. *See* App. D.E. 11.

privileges, or immunities secured by the Constitution and laws” of the United States. Although he generally invokes due process, it seems to us that his challenge to Alabama Rule of Appellate Procedure 8(d)(1) is at bottom based on the assertion that it violates an Alabama statute and a provision of the Alabama Constitution. And a violation of state law is not cognizable under § 1983. See *Collins v. City of Harker Heights*, 503 U.S. 115, 119 (1992) (“Although the statute provides the citizen with an effective remedy against those abuses of state power that violate federal law, it does not provide a remedy for abuses that do not violate federal law[.]”); *United Housing Foundation, Inc. v. Forman*, 421 U.S. 837, 860 n.27 (1975) (“The remaining counts in the complaint were all predicated on alleged violations of state law not independently cognizable in federal court [under § 1983.]”); *Knight v. Jacobson*, 300 F.3d 1272, 1276 (11th Cir. 2002) (noting that § 1983 “does not create a remedy for every wrong committed under the color of state law, but only for those that deprive a plaintiff of a federal right”); *Wideman v. Shallowford Comm. Hospital, Inc.*, 826 F.2d 1030, 1032 (11th Cir. 1981) (explaining that § 1983 “imposes liability only ‘for violations of rights protected by the Constitution, not for violations of duties of care arising out of tort law’”) (citation omitted).³ Mr. Boyd has not identified any federal due process right that shows that Alabama Rule of Appellate Procedure 8(d)(1) is unconstitutional. Cf. *Johnson v.*

³ Given our resolution, we need not and do not address whether Mr. Boyd could assert his claim against the Governor and Attorney General of Alabama under *Ex Parte Young*, 209 U.S. 123 (1908).

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Collier, 137 F. 4th 376, 383 (5th Cir. 2025) (explaining that a capital inmate challenging the procedure used to set his execution in Texas could not “identify any federal or state law that clearly creates a right to only be executed if the district attorney seeks the setting of an execution date”).

Mr. Boyd’s *pro se* motion for a stay of execution is denied.