No. 25A174

IN THE SUPREME COURT OF THE UNITED STATES

KAYLE BARRINGTON BATES,

Petitioner,

v.

RICKY D. DIXON, SECRETARY,
FLORIDA DEPARTMENT OF CORRECTIONS

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE ELEVENTH CIRCUIT COURT OF APPEALS

REPLY IN SUPPORT OF
APPLICATION FOR STAY OF EXECUTION

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

In opposing Mr. Bates' application for a stay of execution, Respondent primarily argues that his certiorari petition is not meritorious. Response at 3. In arguing that Mr. Bates' Rule 60(b) motion was improperly filed and that courts are unlikely to reopen habeas cases in light of *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2025), Respondent joins the Eleventh Circuit in debating the district court's rejection of Mr. Bates' Rule 60(b) motion. Response at 3-5. But a debate among reasonable jurists on a question of law requires granting a COA, not denying one.

Slack v. McDaniel, 529 U.S. 473, 484 (2000) (finding the COA standard requires "a substantial showing of the denial of a right[, which] includes showing that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner.").

Moreover, Respondent ignores that the Eleventh Circuit itself previously granted a COA in Mr. Bates' case, resulting in separate opinions regarding the issue of AEDPA deference—meaning, at least one judge on the panel found Mr. Bates' underlying claims to be debatable. *See Miller-El v. Cockrell*, 537 U.S. 322, 338 (2003) (explaining that issues need only be "debatable or wrong" to qualify for COA); *Bates v. Sec'y, Fla. Dep't of Corr.*, 768 F.3d 1278, 1287 (11th Cir. 2014) (Wilson, J., concurring). Respondent fails to explain how the current Eleventh Circuit's disagreement with the district judge and the prior panel militates against a COA rather than supporting one.

Further, Respondent inaccurately reports the legal landscape regarding whether *Loper Bright* has affected the interpretation of AEDPA deference. Response at 6. In fact, the question of whether AEDPA deference has been abrogated by *Loper Bright* was raised in a Rule 60(b)(6) motion in a case arising out of the Ninth Circuit. *See Smith v. Thornell*, Case No. 25-1964 (9th Cir. ECF 7); Pet. at 11. In *Smith*, the petitioner filed a motion for COA on July 28, 2025, which is still pending. Relatedly, the question of AEDPA deference under *Loper Bright* was raised under Rule 59(e) in *Washington v. Marshall*, a case currently pending in the Eleventh Circuit. Case No. 24-13905 (11th Cir.). Thus, contrary to Respondent's baseless assertions, the issue of

AEDPA deference ***is*** being litigated—*i.e.*, debated—across the country among myriad procedural postures. *See Miller-El*, 537 U.S. at 338 (providing the standard of review for COA). Respondent's arguments as to the merits of the certiorari petition only support Mr. Bates' points that COA should have been granted and relief is warranted.

Finally, it is indisputable that Mr. Bates will be irreparably harmed if his execution is allowed to go forward, and the balance of equities weighs heavily in favor of a stay. Florida's interest in the timely enforcement of judgments handed down by its courts must be weighed against Mr. Bates' continued interest in his life. Respondent's argument that "some additional showing should be required in a capital case" to satisfy the irreparable injury factor, Response at 6-7, is contrary to this Court's conclusion that irreparable injury "is necessarily present in capital cases." *Wainwright v. Booker*, 473 U.S. 935, 935 n.1.

The Court should grant a stay of execution.

Respectfully submitted,

/s/ Christina Mathieson
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