

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JOVAN HOWARD

Petitioner,

VS.

THE FLORIDA DEPARTMENT OF CORRECTIONS
JULIE L. JONES, SECRETARY.

Respondent,

ON PETITION FOR WRIT OF CERTIORARI
TO THE FIRST DISTRICT COURT OF APPEALS
STATE OF FLORIDA

PETITION FOR WRIT OF CERTIORARI
{APPENDIX}

Pro'se Petitioner.

Jovan Howard DC# 079919.
Columbia Correctional Annex.
253, S.E. Corrections Way.
Lake City Fl, 32025.

APPENDIX

H.

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-734

JOVAN HOWARD,

Appellant,

v.

THE FLORIDA DEPARTMENT OF
CORRECTIONS, Julie L. Jones,
Secretary,

Appellee.

On appeal from the Circuit Court for Columbia County.
Andrew J. Decker, III, Judge.

June 25, 2018

PER CURIAM.

AFFIRMED.

ROBERTS, RAY, and KELSEY, JJ., concur.

*Not final until disposition of any timely and
authorized motion under Fla. R. App. P. 9.330 or
9.331.*

APPENDIX

I.

IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT
IN AND FOR COLUMBIA COUNTY, FLORIDA

JOVAN HOWARD,
Petitioner,

CASE NO.: 2017-380-CA

vs.

THE FLORIDA DEPARTMENT
OF CORRECTIONS, JULIE JONES,
SECRETARY,
Respondent(s).

ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS

THIS CASE comes before this Court upon the Petitioner's *pro se* "Complaint for Petition for Writ of Habeas Corpus," filed with the Columbia Clerk of Court on November 6, 2017. Upon consideration of the petition and applicable law, this Court finds and concludes:

The Petitioner is currently incarcerated at the Columbia Correctional Institution for a conviction in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida. In Broward County case 2006-2580-CF, the State filed an information charging the Petitioner with burglary of a dwelling. The State subsequently amended the information to add the alias "Gerald Gordon," which it believed the Petitioner was known by. The case proceeded to a jury trial, and the Petitioner was found guilty as charged. The Petitioner was sentenced to thirty years in prison as a habitual felony offender, with a fifteen-year mandatory minimum as a prison releasee reoffender. The Petitioner appealed, and the Fourth District Court of Appeal (Fourth DCA) affirmed (4D07-2982).¹ The Petitioner then filed at least one motion for postconviction relief with the trial court. The trial court denied the motion, and the Fourth DCA *per curiam* affirmed the denial (4D11-1815). Then, in 2013, the Petitioner filed a motion to correct the record, seeking to remove the alias "Gerald Gordon" from the court record as the Petitioner claimed it was a false name that he had never used. The trial court denied the motion, and the Petitioner appealed. The Fourth DCA remanded the motion to the trial court, directing the trial court to treat the motion as a motion to correct a clerical error and reconsider it on the merits. See Howard v. State, 139 So. 3d 975 (Fla. 4th DCA 2014). Upon reconsideration, the Broward County trial court granted the motion to correct the record, finding that the alias should be removed from the record as a clerical error.

In the instant petition, the Petitioner challenges the validity of his conviction in case number 2006-2580-CF, arguing that the State improperly amended the information in his criminal case and that the unauthorized amended information "operate[d] to arrest the power of the trial court to proceed to trial on such indictment or information." *Petition at 1*. As such, the Petitioner claims that his conviction and sentence are void and that he is entitled to immediate release.

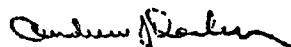
¹ Mandate issued on April 30, 2010.

However, under Florida law, the Petitioner's claims are barred from an action seeking habeas corpus relief since “[h]abeas corpus is not a vehicle for obtaining additional appeals of issues which were raised or should have been raised on direct appeal, or which could have been, should have been, or were raised in post-conviction proceedings.” Zuluaga v. State, Dep’t of Corr., 32 So. 3d 674, 676-77 (Fla. 1st DCA 2010). Moreover, if treated as a motion for postconviction relief, this Court does not have jurisdiction to consider the claims as it is not the court that rendered the judgment of conviction or imposed the Petitioner’s sentence. Id. at 677. Ordinarily, this Court would transfer the petition if treated as a postconviction motion to the sentencing court. However, if the instant petition was treated as a motion for postconviction relief, it would be untimely. See Fla. R. Crim. P. Rule 3.850(b). Furthermore, the Petitioner has filed a number of postconviction motions; thus, he has had every opportunity to raise the instant claims before the court of proper jurisdiction. Finally, contrary to the Petitioner’s claims, alteration of an information to include an alias which is later found to be a clerical error does not render the information void and cause the trial court to lose jurisdiction to hear the case. See Fla. R. Crim. P. 3.140(o). As such, the Petitioner is barred from raising the instant claims in a petition for writ of habeas corpus.

Therefore, it is **ORDERED**:

The Petitioner’s “Complaint for Petition for Writ of Habeas Corpus” is **DISMISSED**. The Petitioner may appeal this decision with the First District Court of Appeal within thirty days from the date this order is rendered.

DATE: February 6, 2018, at Lake City, Columbia County, Florida.



Andrew J. Decker, III,
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Order was furnished by U.S. Mail, electronic mail, or hand delivery, on February 6, 2018, to the following:

- Jovan Howard, Columbia Correctional Institution – Annex, 216 SE Corrections Way, Lake City, Florida 32025-2013
- Department of Corrections, Attn: General Counsel – Court Order, 501 South Calhoun Street, Tallahassee, Florida 32399-2500



Teresa Buckley
Person Sending Copies

APPENDIX

J.

**Additional material
from this filing is
available in the
Clerk's Office.**