

LEGAL MAIL
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1/30/20 for mailing by 1/30

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

DAVID DWAYNE BROWN, Pro Se,
Petitioner,

UT case no: f03210184

V.

STATE OF FLORIDA,
Respondent(s).

ON PETITION FOR A WRIT OF CERTIORARI TO

DISTRICT COURT OF APPEALS OF FLORIDA, THIRD DISTRICT
(COURT THAT LAST RULED ON MERITS OF MY CASE)

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

revert

DAVID DWAYNE BROWN DC# 180307

FLORIDA STATE PRISON F-1209

P.O. BOX 800

RAIFORD, FLORIDA 32083

APPX A

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JUNE 14, 2019

DAVID BROWN,
Appellant(s)/Petitioner(s),
vs.
THE STATE OF FLORIDA,
Appellee(s)/Respondent(s),

CASE NO.: 3D18-2157
L.T. NO.: 03-21018

Upon consideration, petitioner's pro se "petition for enforcement of this Court's appellate order or decree" is hereby stricken as unauthorized and as barred by this Court's prior order of March 13, 2019 and opinion of September 20, 2017, in Case No. 3D17-1685.

EMAS, C.J., and SALTER and LOGUE, JJ., concur.

A True Copy
ATTEST
Mercedes M. Fruito
CLERK
DISTRICT COURT OF APPEAL
THIRD DISTRICT

cc: Michael W. Mervine Office Of Attorney General David Dwayne Brown

la

[Handwritten signatures]

Appx. B

Supreme Court of Florida

TUESDAY, NOVEMBER 12, 2019

CASE NO.: SC19-1147

Lower Tribunal No(s).:

3D18-2157;

132003CF0210180001XX

DAVID DWAYNE BROWN

vs. STATE OF FLORIDA

Petitioner(s)

Respondent(s)

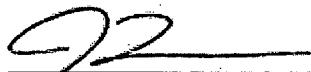
This cause having heretofore been submitted to the Court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Article V, Section 3(b), Florida Constitution, and the Court having determined that it should decline to accept jurisdiction, it is ordered that the petition for review is denied.

No motion for rehearing will be entertained by the Court. *See* Fla. R. App. P. 9.330(d)(2).

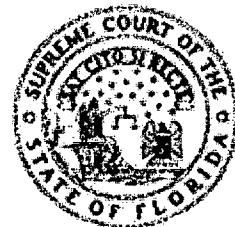
CANADY, C.J., and POLSTON, LABARGA, LAWSON, and MUÑIZ, JJ., concur.

A True Copy

Test:



John A. Tomasino
Clerk, Supreme Court



db

Served:

MICHAEL W. MERVINE
DAVID DWAYNE BROWN
HON. MERCEDES M. PRIETO, CLERK
HON. MARTIN GLENN ZILBER, JUDGE
HON. HARVEY RUVIN, CLERK

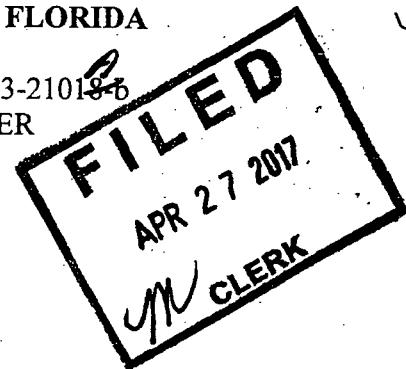
Appx. C

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff
vs.

DAVID BROWN,
Defendant

Case No. F03-21018-b
Judge ZILBER



ORDER TO SHOW CAUSE

THIS CAUSE came before the court upon the defendant's Second or Successive Motion for Postconviction Relief, the Defendant's Amended Motion, and the State's Response thereto and the request by the State seeking sanctions pursuant to State v. Spencer, 751 So. 2d 47 (Fla. 1999); Rivera v. State, 728 So. 2d 1165, 1166 (Fla. 1998); and § 944.28 (2)(a), Fla. Stat. (2013).

A copy of the State's Responses was forwarded to the Defendant by the assistant state attorney who filed the response, and an additional copy is attached hereto.

David Brown was sentenced to life sentences on two counts of First Degree Murder and one Count of Attempted First Degree Murder with a Firearm. Since his sentencing in 2004, the defendant has filed two prior collateral claims in this Court, attacking his judgment and sentence and his case has made multiple appearances in the Third District Court of Appeal. In addition, he has filed Habeas Corpus Petitions in the Third District Court of Appeal and the District Court of the United States for the Southern District of Florida. All courts have affirmed David Brown's judgment and sentence on every occasion. The defendant has once again abused the judicial process by filing another motion containing claims that are procedurally barred and that have been previously raised and rejected. In addition, the defendant's claims are without merit. In addition, David Brown lied to this Court in this third motion alleging facts that are demonstrably false in order to gain a ruling of extraordinary circumstances that do not exist.

Post-conviction relief should only be used to challenge a final judgment for a limited time and for limited reasons. The defendant's abuse of process by filing repetitious, frivolous, or non-

meritorious motions diminishes the court's ability to devote its finite resources to the consideration of legitimate claims. He has caused the Office of the State Attorney and this Court to expend precious and finite resources which could otherwise be devoted to cases raising legitimate claims. *Hedrick v. State*, 6 So.3d 688, 691 (4th DCA 2009) (noting, “[a] legitimate claim that may merit relief is more likely to be overlooked if buried within a forest of frivolous claims.”).

While the Court is mindful that litigants must be afforded a genuine and adequate opportunity to exercise their constitutional right of access to the courts, that right is not unfettered. The right to proceed *pro se* may be forfeited where it is determined, after proper notice and an opportunity to be heard, that the party has abused the judicial process by the continued filing of successive or meritless collateral claims in a criminal proceeding. *State v. Spencer*, 751 So.2d 47 (1999). There comes a point when “enough is enough.” *Isley v. State*, 652 So.2d 409, 410 (5th DCA 1995). Although termination of the right to proceed *pro se* will undoubtedly impose a burden on a litigant who may be unable to afford counsel, the court must strike a balance between the pro se litigant's right to participate in the judicial process and the courts' authority to protect the judicial process from abuse.

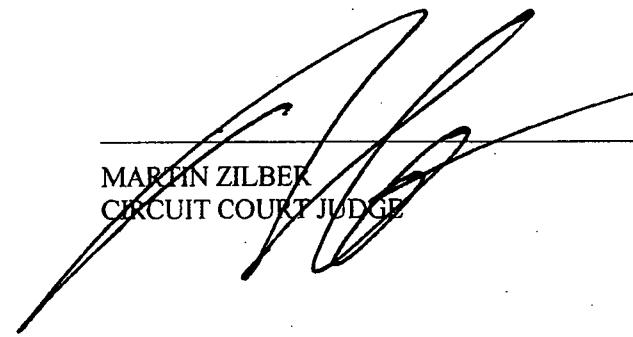
If the defendant is unable to demonstrate that his claims have merit and that he did not abuse the legal process by once again filing a frivolous claim, he will be met with referral to the appropriate institution for consideration of disciplinary procedures which may include the forfeiture of gain time, *see* § 944.279(1), Fla. Stat. (2009), and issuance of an order barring pro se filings. *See Smith v. State*, 50 So.3d 1214, 1216 (Fla. 4th DCA 2010). The order would prohibit the defendant from filing any further petitions or motions without a member of the Florida Bar in good standing signing the pleading.

ORDERED and ADJUDGED that the Defendant, David Brown, show cause, in writing, by May 15, 2017, why this Court should not make a finding and enter an order declaring the

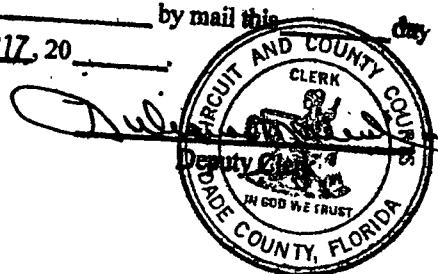
Defendant's Motion Third Motion for Postconviction Relief to be frivolous and to have said order forwarded to the Florida Department of Corrections for disciplinary procedures pursuant to sections 944.279 and 944.28 (2) (a), Florida Statutes. The Defendant is further ordered to show cause in writing, why this court should not make a finding that the Defendant has abused the judicial process and should therefore be prohibited from filing any further pleadings challenging his convictions and sentence in this case unless such pleading is signed by a licensed attorney.

The Clerk of this Court is hereby ordered to send a copy of this order to the Defendant, David Brown, DC # 180307, Florida State Prison, P.O. Box 800, Raiford, FL 32083.

DONE and ORDERED in Miami-Dade County, Florida, on this 20 day of April, 2017.


MARTIN ZILBER
CIRCUIT COURT JUDGE

I CERTIFY that a copy of this order has been furnished to
the MOVANT, DAVID DWAYNE BROWN, by mail this day
of JUN 20 2017, 20.



APPX. D

M68-363

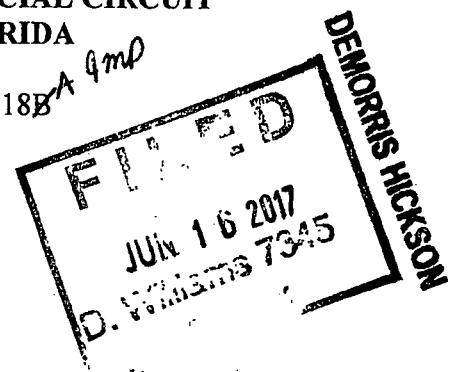
IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff

vs.

DAVID DWAYNE BROWN,
Defendant

Case No. F02-21018B³
Judge Zilber



ORDER PREVENTING *PRO SE* PLEADINGS

THIS CAUSE came before the court upon the defendant's Motion to Correct Illegal Sentence, the State's Response and attachments, the court files and records, and the request by the State seeking sanctions pursuant to *State v. Spencer*, 751 So. 2d 47 (Fla. 1999); *Rivera v. State*, 728 So. 2d 1165, 1166 (Fla. 1998); and § 944.28 (2)(a), Fla. Stat. (2013).

David Brown was sentenced to life sentences on two counts of First Degree Murder and one Count of Attempted First Degree Murder with a Firearm. Since his sentencing in 2004, the defendant has filed two prior collateral claims attacking his judgment and sentence and his case has made multiple appearances in the Third District Court of Appeal. That Court has affirmed David Brown's judgment and sentence on every occasion. The defendant has once again abused the judicial process by filing another motion containing claims that are procedurally barred and that have been previously raised and rejected. In addition, the defendant's claims are without merit. In addition, David Brown lied to this Court in this third motion alleging facts that are demonstrably false in order to gain a ruling of extraordinary circumstances that do not exist.

The defendant, David Dwayne Brown, was ordered to show cause within thirty days why this Court should not find that he has abused the judicial process by filing multiple repetitious and non-meritorious motions. The defendant's response repeats his claims and insists that they have merit.

The State has recommended that the defendant be prevented from filing further *pro-se* motions and requiring that all future motions be signed by a licensed attorney and also recommends disciplinary procedures which may include the forfeiture of gain time, *see* § 944.279(1), Fla. Stat. (2009).

RECORDED ¹⁷⁵

8/26/17

Post-conviction relief should only be used to challenge a final judgment for a limited time and for limited reasons. The defendant's abuse of process by filing repetitious, frivolous, or non-meritorious motions diminishes the court's ability to devote its finite resources to the consideration of legitimate claims. He has caused the Office of the State Attorney and this Court to expend precious and finite resources which could otherwise be devoted to cases raising legitimate claims. *Hedrick v. State*, 6 So.3d 688, 691 (4th DCA 2009) (noting, “[a] legitimate claim that may merit relief is more likely to be overlooked if buried within a forest of frivolous claims.”).

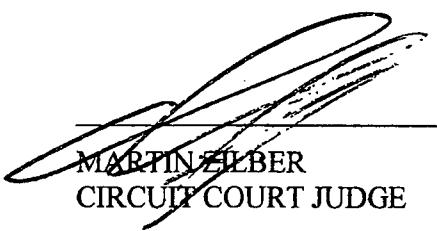
While the Court is mindful that litigants must be afforded a genuine and adequate opportunity to exercise their constitutional right of access to the courts, that right is not unfettered. The right to proceed *pro se* may be forfeited where it is determined, after proper notice and an opportunity to be heard, that the party has abused the judicial process by the continued filing of successive or meritless collateral claims in a criminal proceeding. *State v. Spencer*, 751 So.2d 47 (1999). There comes a point when “enough is enough.” *Isley v. State*, 652 So.2d 409, 410 (5th DCA 1995). Although termination of the right to proceed *pro se* will undoubtedly impose a burden on a litigant who may be unable to afford counsel, the court must strike a balance between the *pro se* litigant's right to participate in the judicial process and the courts' authority to protect the judicial process from abuse.

The Court finds that the defendant, David Dwayne Brown, has been unable to demonstrate that his claims have merit and that he did not abuse the legal process by once again filing a frivolous claim. Upon a thorough review of the history of the defendant's filings, this court FINDS that the defendant's pleadings have been denied on their merits in addition to procedural grounds and that the defendant has failed to demonstrate good cause to excuse his abuse of process by filing repetitious, frivolous, or non-meritorious motions, which has diminished the court's ability to devote its finite resources to the consideration of legitimate claims.

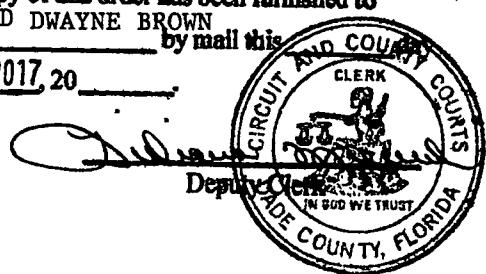
WHEREFORE, in order to preserve the right of access for all litigants and promote the interests of justice, the court hereby **ORDERS** the following:

1. Defendant, DAVID DWAYNE BROWN, is barred from filing further *pro se* pleadings, petitions, motions, or papers challenging the judgment and sentence in case Number F03-21028B.
2. The Clerk of this Court is hereby instructed to reject any further *pro se* pleadings, petitions, motions and other papers submitted by DAVID DWAYNE BROWN that are related to his conviction and sentence in Case Numbers F03-21018B unless signed by a member in good standing of the Florida Bar. Under the sanction herein imposed, the defendant is not being denied access to the courts. He may petition the Court about his conviction and sentence through the assistance of counsel whenever such counsel determines that the pleading may have merit and can be filed in good faith. However, DAVID DWAYNE BROWN's abusive *pro se* filings relating to his conviction and sentence must immediately come to an end.
3. The Clerk of the Court is Hereby Ordered to transmit a copy of this order to the Department of Corrections for possible disciplinary procedures which may include the forfeiture of gain time, *see* § 944.279(1), Fla. Stat. (2009).

DONE AND ORDERED this JUN 16 2017 day of June, 2017, in Miami-Dade, Florida.


MARTIN ELLER
CIRCUIT COURT JUDGE

I CERTIFY that a copy of this order has been furnished to
the MOVANT, DAVID DWAYNE BROWN by mail this
of JUN 20 2017, 20.



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