

# Supreme Court of Florida

TUESDAY, JANUARY 5, 2021

CASE NO.: SC20-1600

Lower Tribunal No(s):  
642020CA030011XXXXCI

BERTRAM MANN

vs.

VOLUSIA COUNTY SHERIFF'S  
DEPARTMENT

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Petitioner(s)

Respondent(s)

The petition for writ of mandamus is hereby denied as successive. *See Jenkins v. Wainwright*, 322 So. 2d 477, 478 (Fla. 1975) (declaring that once a petitioner seeks relief in a particular court by means of a petition for extraordinary writ, he has picked his forum and is not entitled to a second or third opportunity for the same relief by the same writ in a different court). No motion for rehearing will be entertained by this Court.

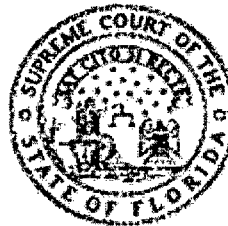
POLSTON, LABARGA, LAWSON, MUÑIZ, and GROSSHANS, JJ., concur.

A True Copy

Test:



John A. Tomasino  
Clerk, Supreme Court



ks

Served:

BERTRAM MANN  
MICHAEL J. CHITWOOD, SHERIFF  
HON. LAURA E. ROTH, CLERK

IN THE CIRCUIT COURT, SEVENTH JUDICIAL  
CIRCUIT, IN AND FOR VOLUSIA COUNTY,  
FLORIDA

CASE NO.: 2020-30011 CICI<sup>1</sup>

BERTRAM S. MANN,  
Petitioner,

v.

VOLUSIA COUNTY SHERIFF'S DEPARTMENT,

Respondent.

**ORDER DISMISSING PETITIONER'S MOTION FOR REHEARING**

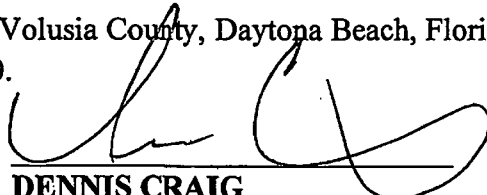
**THIS MATTER** is before the Court upon Petitioner's *pro se* pleadings, which this Court has construed as motions for rehearing filed on April 20, 2020; May 29, 2020; June 12, 2020; and June 15, 2020. The Court having considered the pleadings and the court file, and being otherwise fully advised in the premises finds as follows:

The Court previously dismissed Petitioner's initial motion for rehearing as untimely pursuant to *Surratt v. Freeman*, 924 So. 2d 905, 906 (Fla. 1st DCA 2006). The aforesaid order was returned to the Court on or about May 15, 2020. *See* Appendix A. Notwithstanding, the pleading is still untimely. The remaining pleadings would also be untimely pursuant to both Florida Rule of Appellate Procedure 9.330 and Florida Rule of Civil Procedure 1.530. *See Surratt*, 924 So. 2d at 906. Therefore, Petitioner's motions for rehearing are **DIMISSED**.

**RULING**

Accordingly, it is hereby **ORDERED AND ADJUDGED** that the motions for rehearing are **DIMISSED** as untimely.

**DONE AND ORDERED** in Chambers, in Volusia County, Daytona Beach, Florida, this  
18<sup>th</sup> day of June 2020.

  
**DENNIS CRAIG**  
CIRCUIT COURT JUDGE

cc: Bertram S. Mann, Petitioner, D.C. # 585588, Blackwater Correctional Facility, 5914 Jeff  
Ates Road, Milton, Florida 32583-0000  
The Volusia County Sheriff's Office

<sup>1</sup> The caption is entitled BERTRAM S. MANN v. SHERIFF'S DEPT ET AL, however in the interest of clarity the Court will refer to the pleading as BETRAM S. MANN v. VOLUSIA COUNTY SHERIFF'S OFFICE.

IN THE CIRCUIT COURT, SEVENTH JUDICIAL  
CIRCUIT, IN AND FOR VOLUSIA COUNTY,  
FLORIDA

CASE NO.: 2020-30011 CICI

BERTRAM S. MANN,  
Petitioner,

v.

VOLUSIA COUNTY SHERIFF'S DEPARTMENT,

Respondent.

FILED  
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CLERK OF THE COURT  
3 CIRCUIT VOLUSIA  
COUNTY  
FLORIDA

**ORDER DENYING PETITIONER'S PETITION FOR WRIT OF MANDAMUS**

**THIS MATTER** is before the Court upon Petitioner's *pro se* petition for writ of mandamus filed on January 6, 2020. The Court having considered the petition and the court file, and being otherwise fully advised in the premises finds as follows:

Petitioner moves this Court to compel the Volusia County Sheriff's Office to complete internal investigations related to complaints or grievances he has filed with the office. Specifically, based upon the attachments to the instant petition, Petitioner moves this Court to compel the Sheriff's Office to conduct investigations concerning alleged issues stemming from the arrest affidavit, search warrant, and trial testimony of two deputies in case number 1991-001276 CFAES. Events related to the allegations of misconduct occurred between 1991 and 1994. The Volusia County Sheriff's Office declined to conduct internal investigations in 2014. For the following reasons, the petition lacks merit.

First, Petitioner has failed to plead a *prima facie* case for mandamus. "To state a cause of action for mandamus, a party must allege a clear legal right to performance of the act requested, an indisputable legal duty, and the lack of an adequate remedy at law." *Seigler v. Bell*, 148 So. 3d 473, 480 (Fla. 5th DCA 2014) (quoting *Radford v. Brock*, 914 So. 2d 1066, 1067 (Fla. 2d DCA 2005)). The Court finds that the Sheriff's Office completed its ministerial duty to determine if an investigation into the allegations was warranted, any further action would be discretionary. Therefore, Petitioner's petition for writ of mandamus is **DENIED**.

Second, based upon the attachments to the petition, Petitioner is attempting to collaterally attack his judgment and sentence, which is not cognizable in a petition for writ of mandamus. Petitioner should have challenged these allegations during his criminal case at the trial stage. See *Haynes v. State*, 73 So. 3d 793, 795 (Fla. 5th DCA 2011) (citing *Wright v. State*, 857 So. 2d 861, 874 (Fla. 2003)). Therefore, Petitioner's petition for writ of mandamus is **DENIED**.

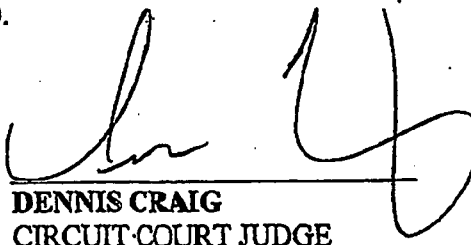
Third, as stated above, the events related to the allegations of misconduct occurred between 1991 and 1994. Any claim concerning the events of alleged misconduct would be barred by the equitable doctrine of laches. Alternatively, based upon the attachments, the Volusia County Sheriff's Office declined to conduct investigations in 2014. Defendant filed the instant petition nearly six year later in 2020; accordingly, the petition is barred by the equitable doctrine of laches in that respect. Therefore, Petitioner's petition for writ of mandamus is **DENIED**.

#### RULING

Accordingly, it is hereby **ORDERED AND ADJUDGED** that the petition for writ of mandamus is **DENIED WITH PREJUDICE**.

Petitioner has **thirty (30)** days from the rendition of this order to file a notice of appeal.

**DONE AND ORDERED** in Chambers, in Volusia County, Daytona Beach, Florida, this 18<sup>th</sup> day of March 2020.

  
DENNIS CRAIG  
CIRCUIT COURT JUDGE

cc: Bertram S. Mann, Petitioner, D.C. # 585588, Blackwater Correctional Facility, 5814 Jeff Ates Road, Milton, Florida 32583-0000  
The Volusia County Sheriff's Office

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