

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

DWIGHT DAVID JORDAN,

Appellant,

v.

Case No. 5D21-595

STATE OF FLORIDA,

Appellee.

Decision filed September 28, 2021

Appeal from the Circuit Court
for Seminole County,
Debra S. Nelson, Judge.

Dwight Jordan, Milton, pro se.

Ashley Moody, Attorney General,
Tallahassee, and Whitney Brown
Hartless, Assistant Attorney General,
Daytona Beach, for Appellee.

PER CURIAM.

AFFIRMED.

LAMBERT, C.J., EVANDER and EDWARDS, JJ., concur.

(Appendix A)

IN THE CIRCUIT COURT FOR THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,

CASE NO. 09-3542CFA

vs.

DWIGHT DAVID JORDAN,
Defendant.

ORDER DISMISSING DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS

THIS CAUSE comes before the Court on Defendant's pro se "Petition for Writ of Habeas Corpus," filed on December 29, 2020. Having reviewed the motion, the case file, and the applicable law, and upon due consideration, the Court finds as follows:

The record reflects that Defendant was found guilty of robbery with a deadly weapon or firearm after a jury trial. On February 3, 2010, Defendant was sentenced to life with a minimum mandatory of life as a prison releasee reoffender (PRR). Defendant appealed and the Fifth District Court of Appeal per curiam affirmed. Jordan v. State, 56 So. 3d 784 (Fla. 5th DCA 2011). On July 26, 2011, Defendant filed a motion for postconviction relief. A copy of the motion is attached hereto as Exhibit A. The Court rendered a final order denying Defendant's motion February 29, 2012. A copy of the order is attached hereto as Exhibit B. Defendant appealed and the Fifth District Court of Appeal per curiam affirmed. Jordan v. State, 109 So. 3d 1171 (Fla. 5th DCA 2013). Defendant filed a second motion for postconviction relief on August 28, 2017, which was dismissed by order rendered August 30, 2017. A copy of the motion without attachments is attached hereto as Exhibit C. A copy of the order is attached hereto as Exhibit D. Defendant appealed and the Fifth District Court of Appeal per curiam affirmed. Jordan v. State, 239 So. 3d 700 (Fla. 5th DCA 2018).

A petition for habeas corpus should be dismissed as unauthorized when the defendant seeks collateral postconviction relief and the motion:

(1) would be untimely if considered as a motion for postconviction relief under rule 3.850, (2) *raise claims that could have been raised at trial or, if properly preserved, on direct appeal of the judgment and sentence*, or (3) would be considered a second or successive motion under rule 3.850 that either fails to allege new or different grounds for relief, or alleges new or different grounds for relief that were known or should have been known at the time the first motion was filed.

Richardson v. State, 918 So. 2d 999, 1003 (Fla. 5th DCA 2006) (quoting Baker v. State, 878 So. 2d 1236, 1245-46 (Fla. 2004)) (emphasis in original).

In his motion, Defendant asserts the information was defective for failing to charge him as a principal, the trial court erred in instructing the jury on principal, the information was defective for charging robbery with a deadly weapon or firearm, and the trial court erred in instructing the jury on robbery with a deadly weapon or firearm. Pursuant to Richardson, Defendant's petition should be dismissed because it is untimely under Rule 3.850, raises issues that should have been raised at trial or on appeal, and it would be considered a successive motion under Rule 3.850.

Accordingly, it is
ORDERED AND ADJUDGED that Defendant's motion is DISMISSED with prejudice as unauthorized.

DONE AND ORDERED in chambers at Sanford, Seminole County, Florida, on Thursday, February 11, 2021.

59-2009-CF-003542-A 02/11/2021 11:36:45 AM



Debra Nelson, Circuit Judge
59-2009-CF-003542-A 02/11/2021 11:36:45 AM

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