

## **APPENDIX “A”**

DISTRICT COURT OF APPEAL OF FLORIDA  
SECOND DISTRICT

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JOHN M. ESPOSITO,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

No. 2D21-3659

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June 1, 2022

Appeal pursuant to Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Charlotte County; Geoffrey H. Gentile, Judge.

John M. Esposito, pro se.

PER CURIAM.

Affirmed. *See* Ch. 95-347, § 1, at 3045, Laws of Fla.; Ch. 77-266, § 1, at 1248, Laws of Fla.; *Baker v. State*, 878 So. 2d 1236 (Fla. 2004); *McDonald v. State*, 133 So. 3d 530 (Fla. 2d DCA 2013); *Hughes v. State*, 22 So. 3d 132 (Fla. 2d DCA 2009); *Valdez-Garcia v. State*, 965 So. 2d 318 (Fla. 2d DCA 2007); *State v. Rothausner*, 934

So. 2d 17 (Fla. 2d DCA 2006); *Steward v. State*, 931 So. 2d 133 (Fla. 2d DCA 2006); *Shortridge v. State*, 884 So. 2d 321 (Fla. 2d DCA 2004); *Romano v. State*, 718 So. 2d 283 (Fla. 4th DCA 1998).

VILLANTI, KHOUZAM, and STARGEL, JJ., Concur.

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Opinion subject to revision prior to official publication.

## **APPENDIX “B”**

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR  
CHARLOTTE COUNTY, FLORIDA**

**CIVIL ACTION**

**JOHN M. ESPOSITO,**

**Petitioner,**

**vs.**

**CASE NO. 21-1176 CA**

**STATE OF FLORIDA,**

**Respondent.**

**ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS**

THIS CAUSE comes before the Court on a *pro se* "Petition for Writ of Habeas Corpus" filed October 15, 2021. The Court finds that Petitioner is attempting to use this habeas petition to collaterally attack his Charlotte County conviction and sentence. Petitioner cannot use a petition for writ of habeas corpus to obtain the kind of collateral post-conviction relief which is available by filing an appeal or a motion in the sentencing court pursuant to the Florida Rules of Criminal Procedure. Baker v. State, 878 So. 2d 1236 (Fla. 2004) (the common law remedy of habeas corpus is not available in Florida to obtain the kind of collateral post-conviction relief available by motion in the sentencing court); State v. Broom, 523 So. 2d 639 (Fla. 2d DCA 1988) (habeas may not be used to collaterally attack the conviction, even in the same county where petitioner was tried). As such, the instant petition is unauthorized.

With that said, and even considering the petition in light most favorable to Petitioner, this Court is not swayed by his arguments that the criminal charges that he was convicted and sentenced on, nor the Florida Statutes associated with those charges, are somehow void or have no legal effect. Further, this Court is not convinced by Petitioner's attempt to argue that this Court lacked subject matter jurisdiction, or that it had no viable statutory authority to either charge or convict the Petitioner.

Upon consideration of this Petition and the applicable law, the Court finds the instant Petition legally insufficient. See §79.01, Florida Statues; *Polk v. Crockett*, 379 So. 2d 368 (Fla. 1st DCA 1979). Further, pursuant to Florida Statute §79.01, "writ of habeas corpus is available only if the petitioner **shows** probable cause to believe that he or she is detained without lawful authority."

Additionally, the petition fails to adequately demonstrate that the Petitioner is entitled to immediate release. Habeas corpus is solely used to test the legality of detention, *Sneed v. Mayo*, 66 So. 2d 865 (Fla. 1953), and a writ cannot issue unless the petitioner is entitled to immediate release from confinement. *Schack v. State*, 194 So. 2d 53 (Fla. 1<sup>st</sup> DCA 1967). Petitioner's case file record shows multiple appeals to the Second District Court of Appeal, as well as Mandates filed in the case file, affirming those appeals of his conviction and sentence. Petitioner should have, or possibly even did, raise those issues of void statutes or the state congress somehow improperly or negligently enacting said statutes, in his appeals. In addition to that, the record shows that the Second District Court of Appeal issued an order on Mach 16, 2021, stating that all state-level appeals and collateral attacks on any judgement must be complete within two years from the date of appeal... this case was not completed within the required time because the case was initiated in this court after the time had already expired.

It is, therefore,

**ORDERED AND ADJUDGED** that the *pro se* "Petition for Writ of Habeas Corpus" filed on October 15, 2021, is hereby **DENIED**.



eSignature of J. CANTILE, DEPT. FREY H in 21001176CA  
on 10/20/2021 08:06:27 MDT77sMM

US Mail Service List  
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## **APPENDIX “C”**

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

August 01, 2022

CASE NO.: 2D21-3659  
L.T. No.: 1176,  
03-1108CF

JOHN M. ESPOSITO

v. STATE OF FLORIDA

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Appellant / Petitioner(s),

Appellee / Respondent(s).

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**BY ORDER OF THE COURT:**

Appellant's motion for rehearing is denied.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

ATTORNEY GENERAL, TAMPA  
JOHN M. ESPOSITO

CERESE CRAWFORD TAYLOR, A.A.G.  
ROGER EATON, CLERK

ag

Mary Elizabeth Kuenzel

Mary Elizabeth Kuenzel  
Clerk

