

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

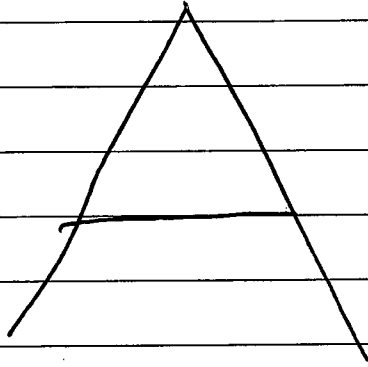
NATHAN ALVARADO – PETITIONER

VS

RICKY D. DIXON, ET. AL – RESPONDENT

APPENDIX

EXHIBIT



Supreme Court of Florida

THURSDAY, JANUARY 12, 2023

CASE NO.: SC22-1714

Lower Tribunal No(s).:
501992CF013092AXXXMB

NATHAN ALVARADO

vs. RICKY D. DIXON, ETC.

Petitioner(s)

Respondent(s)

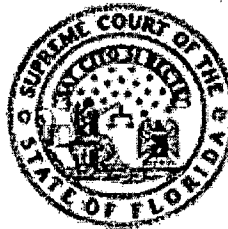
The petition for writ of habeas corpus is hereby dismissed because this Court generally will not consider the repetitive petitions of persons who have abused the judicial processes of the lower courts such that they have been barred from filing certain actions there. *See Pettway v. State*, 776 So. 2d 930, 931 (Fla. 2000). No motion for rehearing or reinstatement will be entertained by this Court.

CANADY, POLSTON, COURIEL, GROSSHANS, and FRANCIS, JJ.,
concur.

A True Copy
Test:



John A. Tomasino
Clerk, Supreme Court



lc
Served:

LANCE ERIC NEFF
CELIA TERENCE

NATHAN ALVARADO
HON. JOSEPH ABRUZZO, CLERK

EXHIBIT

B

In The Florida Supreme Court

Nathan Alvarado,
Petitioner,

v.

Case No#

Lt. Case No# 92-13092 CF10A02

The State of Florida,
Respondent.

Petition for Writ of Habeas Corpus Ad Subjiciendum et Recipiendum
Comes Now, Nathan Alvarado, in proper person, and hereby moves
this Honorable Court pursuant to Art. I § 13 Fla. Const.; Art. V § 3(b)(9)
Fla. Const.; And Fla. Stat. § 79.01 (2022) to determine the legality of Petitioner's
detention. As the sentence imposed by the lower Tribunal Court is illegally
enhanced from a first degree felony with a Statutory Maximum possible
penalty of (30) Thirty years. To a first degree (Pb) Punishable by Life
Felony based on Application of Fla. Stat. § 775.087(1) Without being
specifically being charged with the above named Statute Subsection
(1) Making the present enhancement of the degree of the alleged
felony for the use of a firearm during the commission of the offense
of Second degree Murder an illegal sentence which exceeds the Statutory
Maximum possible penalty which could be imposed by Law Correctable
at any time under Fla. R. Crim P. Rule 3.800(a) which could not be
raised before the lower Tribunal Court based on a Spencer bar.
And this Honorable Court's Jurisdiction is being invoked to correct
a Manifest Injustice Evident on face of the record which entitles
Mr. Alvarado to immediate release. In support of this Writ Petitioner
avens as follows:

Jurisdiction

This Court is vested with the Original Jurisdiction to issue a Writ
of Habeas Corpus by the full Court or an Individual Justice of the
Supreme Court returnable before any Florida Trial, Appellate,
or the Supreme Court, under Art. V § 3(b)(9) and Fla Rapp R. Rule 9.030(d)(3)

See *Cherry v. Jones*, 208 So.3d 701 (Fla. 2016); *Lambrix v. Dugger*, 529 So.2d 1110 (Fla. 1988); And *Cooper v. Dugger*, 526 So.2d 900 (Fla. 1988). The Manifest Injustice Doctrine is meant to provide a vehicle for correction of an injustice where a procedural bar precludes review. See *Henry v. Santana*, 62 So.3d 1122 (Fla. 2011) (Emphasizing that the Writ of Habeas Corpus is guided by correcting a Manifest Injustice as "it is the responsibility of the court to brush aside formal technicalities and issue such appropriate orders as will do Justice"); *Harvard v. Singletary*, 733 So.2d 1020, 1025 (Fla. 1999). Recognizing that the court will remain vigilant to ensure that a Manifest Injustice does not occur; *Lago v. State*, 975 So.2d 613 (Fla. 3rd DCA 2008); *Johnson v. State*, 990 So.2d 1245 (Fla. 3rd DCA 2008); *Strazzulla v. Hendricks*, 177 So.2d 193 (Fla. 1965); And *Ross v. State*, 901 So.2d 252 (Fla. 4th DCA 2005) Even when the ruling has become the law of the case.

The Fourth District Court of Appeals in *Pompey v. Cochran*, 685 So.2d 1007 (Fla. 4th DCA 1997) Explained that:

Confinement contrary to principles of due process may be the subject of Habeas Corpus relief. The Writ of Habeas Corpus is venerated by all free and liberty loving people and recognized as a fundamental guarantee and protection of their right to liberty.

Id. at 685 So.2d 1007, 1010-1011 (Internal Citation omitted).

Further as stated in *Anglin v. Mayo*, 88 So.2d 918 (Fla. 1956)

[The Writ] is as old as the common law itself and is an integral part of our own democratic process. The procedure for the granting of this particular writ is not to be circumscribed by hard and fast rules of technicalities which often accompany our consideration of other process. If it appears to a court of competent jurisdiction that a man is being illegally restrained

of his liberty it is the responsibility of the Court to brush aside formal technicalities and issue such appropriate orders as will do justice. In Habeas Corpus the niceties of the proceedings are nowhere near as important as the determination of the ultimate question to be resolved by the Court. As to the legality of the restraints the present writ follows:

Statement of facts and Argument

1. On November 19th 1992 Mr. Alvarado was charged by indictment by a Grand jury in palm beach County Florida, with (1) one Count of first degree murder with the use and possession of a fire arm in violation of Fla. Stat. § 782.04(1)(a); And Fla. Stat. § 775.087(2) (1992); Count (2) Two Shooting into an occupied vehicle in violation of Fla. Stat. § 790.19 (1992); And Count (3) Three kidnapping in violation of Fla. Stat. § 787.01(1)(a) (1992) for an incident which occurred on or in between October 23rd and 24th 1992. (See Attached Appendix Exhibit A) (Indictment filed Case No. 92-13092 CF 10A02) It is noted that Count (3) Three The kidnapping charge was nolle pross before trial.

2. Petitioner was convicted of Second degree Murder with a fire arm in violation of Florida Statute § 782.04(2); And Shooting into an occupied vehicle in violation of Fla. Stat. § 790.19 - after a trial by jury on September 13th 1993, And was sentenced to life in prison for Second degree Murder with a (3) Three Year minimum mandatory pursuant to the operation of Fla. Stat. § 775.087(2) On Count one which was the subsection charged in the indictment for the use of a fire arm, and to a period of (30) Thirty Years as a Habitual felony offender for Count (2) Two Shooting into an occupied vehicle running concurrent to Count (1) one after a correction of sentence pursuant to Hale v. State, 630 So2d 521 (Fla. 1993) (See Attached Appendix Exhibit B) (Judgment and Sentence imposed on September 14th 1993)

B. Mr. Alvarado Sentence is illegal and evident on the face of

the record on Count One - As Second degree Murder without any enhancements for the use of a Fire Arm Only constitutes a First Degree Felony Punishable by a Statutory Maximum Possible penalty of (30) Thirty Years pursuant to Fla. Stat. § 775.082(3)(b)1. A Fire arm is not an Essential Element of Second degree Murder Pursuant to Fla. Stat. § 782.04(2) without being reclassified Pursuant to Fla. Stat. § 775.087(1) (1992)

4. In The Present Case Mr. Alvarado's Murder Conviction was not enhanced by Section § 775.087(1) On Count One of the Indictment. (See Attached Appendix Exhibit A) As Such Mr. Alvarado Life Sentence imposed on Count One exceeds the Statutory Maximum penalty of (30) Thirty Years for a First Degree Felony without the Fire Arm Enhancement Pursuant to Fla. Stat. § 775.087(1). The Indictment only charges Mr. Alvarado with the (3) Three Year Minimum Mandatory Section of Fla. Stat. § 775.087(2). As Such Mr. Alvarado is illegally detained and entitled to immediate release from the Custody and Care of the Florida Department of Corrections. See and Compare Knight v. State, 253 So.3d 22 (Fla. 3rd DCA 2017)

5. Defendant Scored out to a total of 504 points under the (1983) Sentencing Guidelines Category I with a Recommended Range of (Life) and a Permitted Range of (27 to Life). (See Attached Appendix Exhibit C) (Sentencing Guidelines Score sheet filed on 9-14-93) However, under the law which was in effect at the time Mr. Alvarado committed the alleged offense if the guideline sentence exceeds the Maximum Sentence provided by the Statute for that offense, the Statutory Maximum Sentence should be imposed. See Fla. R. Crim. P. Rule 3.701(d)(10)

6. Mr. Alvarado States that he has no other remedy available under State law in which to raise the present claim which entitles him to immediate release - as his Sentence should be legally

expired if corrected by the Court. However, Mr. Alvarado is "Spencer barred" by the lower Tribunal Court and cannot afford to hire an Attorney in Good Standing with the Florida Bar to represent him. And unless this Court issues the present Writ to correct a Manifest Injustice - which is evident on the face of the record - Claimant will not be able to obtain relief in the present case. (See Attached Appendix-Exhibit D) Also see and compare with - Adams v. State, 957 So.2d 1183, 1186-1187 (Fla. 3rd DCA 2006). In Adams case, the State cowardly claimed that he had no recourse for his lot because the Court did not have jurisdiction to entertain his claims and he was time barred. The Court held that - "Although the State was technically correct, where the Court finds that a Manifest Injustice has occurred, it is the responsibility of that Court to correct the Injustice if it can." Citing Baker v. State, 878 So.2d 1235, 1246 (Fla 2004) where Justice Anstead, C.J., held in a concurring opinion that - "(the Writ of Habeas Corpus" is enshrined in our Constitution to be used as a means to correct Manifest injustices and its availability for use when all other remedies have been exhausted has served our society well over many centuries. This Court will, of course, remain alert to claims of Manifest Injustices as will all Florida Courts." Id. Adams, Supra.

In Mr. Alvarado's case he has served a period of (31) thirty-one years on a case which as charged without the five year enhancement only carries a statutory maximum of (30) thirty years. Like Adams, Mr. Alvarado has no other recourse available to correct the Injustice. As he cannot afford to hire an Attorney to represent his claim to correct an illegal sentence which could be raised at any time under Florida law based on a "Spencer bar" and must remain imprisoned based on his poverty.

In *Jameson v. State*, 447 So.2d 892, 895 (Fla. 4th DCA 1983) citing *Anglin v. Mayo*, 88 So.2d 918, 919-20 (Fla. 1956) which were both quoted by *Adams, Supra*, the 4th District Court of Appeals held that --- "If it appears to a Court of competent jurisdiction that a man is being illegally restrained of his liberty, it is the responsibility of the Court to brush aside formal technicalities and issue such appropriate orders as will do just justice." Id. at *Adams, Supra*,...

As such, this Court should correct the present injustice and order his immediate release from corrections.

Relief Sought

1. For the Court to return the Writ before the lower Tribunal Court with directions to Appoint Counsel to represent Mr. Alvarado on the above named claim which entitles him to immediate discharge from custody.

2. For this Honorable Court to Grant the present Writ forthwith immediately discharging Mr. Alvarado from custody as his Sentence is legally expired for a first degree felony punishable by a Period of (30) Thirty Years. Thereby the Life Sentence imposed is illegal and Adverse to Mr. Alvarado.

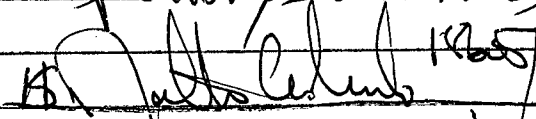
3. Any other remedy or relief deemed just pursuant to Article V § (2)(a) Fla Constitution.

State of Florida

County of Walton

I declare under penalty of perjury everything stated in the present writ is true and correct based on my own personal knowledge.

Respectfully Submitted,


Nathan Alvarado Det
Walton Correctional Institution
691 Institution Road
DeFuniak Springs, FL 32433

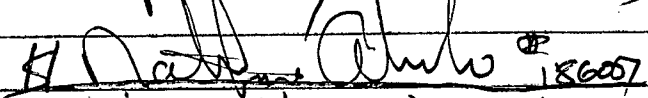
Certificate of Service

Undersigned certifies that a true and correct copy of the foregoing writ was sent on this 12 day of Nov 2022.
By means of U.S. Mail to the following parties:

1. Ashley Wood Attorney General's Office at:
The Capitol PK01 Tallahassee, FL 32399-1050

2. Eric Neff Lance General Counsel F.D.O.C. at:
501 South Calhoun Street Tallahassee, FL 32399-2500

Respectfully Submitted,


Nathan Alvarado Det
Petitioner In Proper Person

In the Florida Supreme Court

Nathan Alvarado,
Petitioner,

v.

The State of Florida,
Respondent

Case No. #
Lt. Case No. # 92-13092CF10A02

APPENDIX
IN SUPPORT OF
WRIT OF
HABEAS CORPUS

APPENDIX TABLE

Exhibit(s)

1. Indictment filed 11-16-92, A

2. Sentencing Papers filed 09-14-1993, B

3. Guideline Score Sheet Dated 09-14-1993, C

4. Order Prohibiting Prose filing, D

EXHIBIT

A

97 NOV 19 11:14

INDICTMENT

IN THE NAME OF AND BY THE AUTHORITY OF THE STATE OF FLORIDA
IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL
CIRCUIT OF THE STATE OF FLORIDA

For Palm Beach County, at the FALL Term thereof, in the year of
our Lord One Thousand Nine Hundred and Ninety Two, to-wit: The
Grand Jurors of the State of Florida, inquiring in and for the
body of said County of Palm Beach, upon their oaths do present
that NATHAN ALVARADO also known as ^{FLACO} ~~"FLACO"~~ in the County of Palm
Beach aforesaid, in the Circuit and State aforesaid,

COUNT ONE
FIRST DEGREE MURDER WITH A FIREARM

between the 23rd day of OCTOBER and the 24th day of OCTOBER in
the year of our Lord One Thousand Nine Hundred and Ninety Two,
did unlawfully from a premeditated design to effect the death of
a human being, kill and murder RONALD ANDERSON, a human being, by
shooting him with a firearm, and in the commission of said
offense did use and have in his possession a deadly weapon, to-
wit: a firearm, said firearm being a firearm as defined in
Florida Statute 790.001(6), contrary to Florida Statute
782.04(1)(a) and 775.087(2), ← Not A Life Enhancement. Plus I
was found guilty of 2nd 1st.

COUNT TWO
SHOOTING INTO AN OCCUPIED VEHICLE

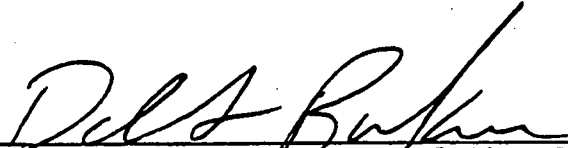
The Grand Jurors of the State of Florida, inquiring in and for
the body of said County of Palm Beach, upon their oaths do
present that NATHAN ALVARADO also known as "FLACO" between the
23rd day of OCTOBER and the 24th day of OCTOBER, 1992, in Palm
Beach County, Florida, did wantonly or maliciously shoot at,
within, or into a vehicle which was being used or occupied by
RONALD ANDERSON, contrary to Florida Statute 790.19,

COUNT THREE NP
KIDNAPPING

The Grand Jurors of the State of Florida, inquiring in and for the body of said County of Palm Beach, upon their oaths do present that NATHAN ALVARADO also known as "~~FLACO~~" between the 23rd day of OCTOBER and the 24th day of OCTOBER, 1992, in Palm Beach County, Florida, without lawful authority did forcibly, secretly or by threat, confine, abduct or imprison JOHN LONNBORG, against that person's will, with the intent to commit or facilitate to the commission of murder, a felony, contrary to Florida Statute 787.01(1)(a),

against the form of the statute, to the evil example of all others, and against the peace and dignity of the State of Florida.

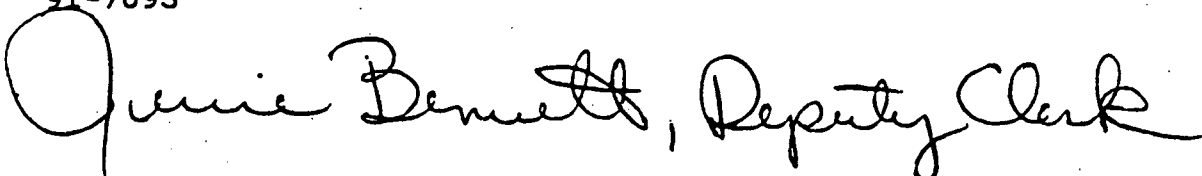
I hereby certify that I have advised the Grand Jury returning this indictment as authorized and required by law.


Assistant State Attorney of the Fifteenth
Judicial Circuit of the State of Florida,
prosecuting for said State


GRAND JURY FOREPERSON

11-16-92
DATE

*Defendant: NATHAN ALVARADO also known as "FLACO"; Race: WHITE;
Sex: MALE; Date of Birth: JUNE 19, 1969; Social Security: 261-
91-7093


Jennie Bennett, Deputy Clerk

EXHIBIT

B

SENTENCE**FILED**Defenda. NATHAN ALDOCase Number 92-13092CFA02

OBTS Number _____

(As to Count(s)) ONE

SEP 14 1993

DOROTHY H. WILKEN
CIRCUIT & COUNTY COURTS
JUDICIAL DIVISION

The Defendant, being personally before this Court, accompanied by attorney, James Eisenberg, and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer mitigation of sentence, and to show cause why defendant should not be sentenced as provided by law, and no cause being shown,

- ☐ and the Court having on _____ deferred imposition of sentence until this date,
(Date)
- ☐ and the Court having previously entered a judgment in this case on the defendant now resentsences the defendant.
- ☐ and the Court having placed the Defendant on probation and/or community control and having subsequently revoked the Defendant's probation and/or community control by separate order entered herein.

IT IS THE SENTENCE OF THE COURT that:

- ☐ The Defendant pay a fine of \$ _____ pursuant to F.S. 775.083, plus \$ _____ as the 5% surcharge required by F.S. 960.25.
- ☒ The Defendant is hereby committed to the custody of the Department of Corrections.
- ☐ The Defendant is hereby committed to the custody of the Sheriff of Palm Beach County, Florida.
- ☐ The Defendant is sentenced as a youthful offender in accordance with F.S. 958.04.

To be imprisoned: ☒ For a term of Natural Life ☐ For a term of _____

*If "split" sentence,
complete either of
these two paragraphs.*

- ☐ Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.
- ☐ However, after serving a period of _____ imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed:

MANDATORY/MINIMUM PROVISIONS:**FIREARM**

- ☒ It is further ordered that the 3 year minimum provisions of Florida Statute 775.087(2) are hereby imposed for the sentence specified in this count.

**DRUG
TRAFFICKING**

- ☐ It is further ordered that the _____ year mandatory minimum provisions of Florida Statute 893.135(1) are hereby imposed for the sentence specified in this count.

**CONTROLLED
SUBSTANCE
WITHIN 1000
FEET OF SCHOOL**

- ☐ It is further ordered that the 3 year minimum provisions of Florida Statute 893.13(1)(e)1, are hereby imposed for the sentence specified in this count.

**HABITUAL
FELONY
OFFENDER**

- ☐ The Defendant is adjudicated a habitual felony offender and has been sentenced to an extended term in this sentence in accordance with the provisions of Florida Statute 775.084(4). The requisite findings by the court are set forth in a separate order or stated on the record in open court.

**HABITUAL
VIOLENT
FELONY
OFFENDER**

- ☐ The Defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of Florida Statute 775.084(4). A minimum term of _____ years must be served prior to release. The requisite findings by the court are set forth in a separate order or stated on the record in open court.

(Continued)

118

113

**LAW ENFORCEMENT
PROTECTION ACT**

☐ It is further ordered that the defendant shall serve a minimum of _____ years before release in accordance with Florida Statute 775.0823.

**CAPITAL
OFFENSE**

☐ It is further ordered that the Defendant shall serve no less than 25 years in accordance with the provisions of Florida Statute 775.082(1).

**CONTINUING
CRIMINAL
ENTERPRISE**

☐ It is further ordered that the 25 year mandatory minimum sentence provisions of Florida Statute 893 are hereby imposed for the sentence specified in this count.

**TAKING
OFFICER'S
FIREARM**

☐ It is further ordered that the defendant shall not be released prior to serving a mandatory minimum period of three years in accordance with Florida Statute 775.0875.

OTHER PROVISIONS**RETENTION
OF JURISDICTION**

☐ The Court retains jurisdiction over the defendant pursuant to Florida Statute 947.16(3).

JAIL CREDIT

☒ It is further ordered that the Defendant shall be allowed a total of _____ days as credit for time incarcerated prior to imposition of this sentence.

11/3/92 to 9/14/93

**SPLIT SENTENCE
VIOLATOR
RESENTENCING**

☐ Defendant is allowed credit for _____ days county jail time served between date of arrest as a violator and date of resentencing. The Department of Corrections shall apply original jail time credit awarded on this count and shall compute and apply credit for time served and unforfeited gain time awarded during prior service of the incarceration portion of the split sentence.

**PRISON
CREDIT**

☐ It is further ordered that the Defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

It is further ordered that the sentence imposed for this count shall run

☒ Consecutive to ☐ concurrent with (check one) the sentence set forth in count 2

It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run

☐ consecutive to ☐ concurrent with (check one) the following:

☐ Any active sentence being served.

☐ Specific sentences: _____

In the event the above sentence is to the Department of Corrections, the Sheriff of Palm Beach County, Florida is hereby ordered and directed to deliver the Defendant to the Department of Corrections together with a copy of this Judgment and Sentence.

The Defendant in Open Court was advised of right to appeal from this Sentence by filing notice of appeal within thirty days from this date with the Clerk of this Court, and the Defendant's right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

In imposing the above sentence, the Court further recommends _____

DONE AND ORDERED in Open Court at Palm Beach County, Florida

this _____ day of SEP 14 1993 A.D., 19 _____

JUDGE

SENTENCE

Defendant

NATHAN ALV DO

(As to Count(s))

TWO

FILED

Case Number 92-13092CFA02

CBTS Number

SEP 14 1993

The Defendant, being personally before this Court, accompanied by attorney, James Eisenberg and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why defendant should not be sentenced as provided by law, and no cause being shown.

- ☐ and the Court having on _____ deferred imposition of sentence until this date.
(Date)
- ☐ and the Court having previously entered a judgment in this case on the defendant now resentsences the defendant.
- ☐ and the Court having placed the Defendant on probation and/or community control and having subsequently revoked the Defendant's probation and/or community control by separate order entered herein.

IT IS THE SENTENCE OF THE COURT that:

- ☐ The Defendant pay a fine of \$ _____ pursuant to F.S. 775.083, plus \$ _____ as the 5% surcharge required by F.S. 960.25.
- ☒ The Defendant is hereby committed to the custody of the Department of Corrections.
- ☐ The Defendant is hereby committed to the custody of the Sheriff of Palm Beach County, Florida.
- ☐ The Defendant is sentenced as a youthful offender in accordance with F.S. 958.04.

To be imprisoned: ☐ For a term of Natural Life ☒ For a term of 30 years

If "split" sentence,
complete either of
these two paragraphs.

- ☐ Followed by a period of _____ on probation under the supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.
- ☐ However, after serving a period of _____ imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed:

MANDATORY/MINIMUM PROVISIONS:

FIREARM

- ☐ It is further ordered that the 3 year minimum provisions of Florida Statute 775.087(2) are hereby imposed for the sentence specified in this count.

DRUG TRAFFICKING

- ☐ It is further ordered that the _____ year mandatory minimum provisions of Florida Statute 893.135(1) are hereby imposed for the sentence specified in this count.

CONTROLLED SUBSTANCE WITHIN 1000 FEET OF SCHOOL

- ☐ It is further ordered that the 3 year minimum provisions of Florida Statute 893.13(1)(e)1, are hereby imposed for the sentence specified in this count.

HABITUAL FELONY OFFENDER

- ☒ The Defendant is adjudicated a habitual felony offender and has been sentenced to an extended term in this sentence in accordance with the provisions of Florida Statute 775.084(4). The requisite findings by the court are set forth in a separate order or stated on the record in open court.

HABITUAL VIOLENT FELONY OFFENDER

- ☐ The Defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of Florida Statute 775.084(4). A minimum term of _____ years must be served prior to release. The requisite findings by the court are set forth in a separate order or stated on the record in open court.

(Continued)

120

114

**LAW ENFORCEMENT
PROTECTION ACT**☐ It is further ordered that the defendant shall serve a minimum of _____ years before release in accordance with Florida Statute 775.0823.**CAPITAL
OFFENSE**☐ It is further ordered that the Defendant shall serve no less than 25 years in accordance with the provision of Florida Statute 775.082(1).**CONTINUING
CRIMINAL
ENTERPRISE**☐ It is further ordered that the 25 year mandatory minimum sentence provisions of Florida Statute 893.2 are hereby imposed for the sentence specified in this count.**TAKING
OFFICER'S
FIREARM**☐ It is further ordered that the defendant shall not be released prior to serving a mandatory minimum period of three years in accordance with Florida Statute 775.0875.**OTHER PROVISIONS****RETENTION
OF JURISDICTION**☐ The Court retains jurisdiction over the defendant pursuant to Florida Statute 947.16(3).**JAIL CREDIT**☒ It is further ordered that the Defendant shall be allowed a total of _____ days as credit for time incarcerated prior to imposition of this sentence.

11/3/92 to 9/14/93

**SPLIT SENTENCE
VIOLATOR
RESENTENCING**☐ Defendant is allowed credit for _____ days county jail time served between date of arrest as a violator and date of resentencing. The Department of Corrections shall apply original jail time credit awarded on this count and shall compute and apply credit for time served and unforfeited gain time awarded during prior service of the incarceration portion of the split sentence.**PRISON
CREDIT**☐ It is further ordered that the Defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

It is further ordered that the sentence imposed for this count shall run

☒ consecutive to ☐ concurrent with (check one) the sentence set forth in count _____

It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run

☐ consecutive to ☐ concurrent with (check one) the following:☐ Any active sentence being served.☐ Specific sentences: _____

In the event the above sentence is to the Department of Corrections, the Sheriff of Palm Beach County, Florida is hereby ordered and directed to deliver the Defendant to the Department of Corrections together with a copy of this Judgment and Sentence.

The Defendant in Open Court was advised of right to appeal from this Sentence by filing notice of appeal within thirty days from this date with the Clerk of this Court, and the Defendant's right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

In imposing the above sentence, the Court further recommends _____

DONE AND ORDERED in Open Court at Palm Beach County, Florida

this _____ day of SEP 14 1993 A.D., 19 _____

JUDGE

EXHIBIT

C

Primary Document Number: 035-1092-CE

Name (Last Name First): ALVARADO, NATHAN

Judge at Sentencing: BROOME

Date of Offense: 10/24/92

Date of Sentence: 9/14/93

Place of Trial: Trial

DOC Number: 10100000000000000000

Violation: 11.3

DOC: 10100000000000000000

I. PRIMARY OFFENSE AT CONVICTION

Counts Degree Statute Description

1 LIFE 782.09(2) 2nd MURDER 1st A FURTHER

POINTS

1 165

II. ADDITIONAL OFFENSES AT CONVICTION

Counts Fel/Misd Degree Statute Description

1 E 2 790.19 SHOOTING INTO OCC VEH

(Continue on Reverse)

II 1

III. A. PRIOR RECORD

Counts Fel/Misd Degree Statute Description

1 E 2 812.01(1) DEALING IN STOLEN PROPERTY

3 E 2 810.02(1) BURGLARY OF DWELLING

8 E 2 853.14(1a) SALE OF COCAINE

1 E 3 812.01(1) GRAND THEFT

1 M 2 812.01(1) RETAIL THEFT

1 M 1 8 RESISTING ARREST w/o

(Continue on Reverse)

III

III. B. SAME CATEGORY PRIORS (categories 3, 5 and 6 only)

III B

III. C. PRIOR DUI CONVICTIONS (category 1 only)

III C

IV. LEGAL STATUS AT TIME OF OFFENSE

(1) no restrictions (2) legal constraint

V. VICTIM INJURY

Number of Scoreable Victim Injuries

Degree of Injury

none or no contact

slight or contact but no penetration

moderate or penetration

severe or death

RECORDERS MEMORANDUM of Writing, Typing or otherwise unsatisfactory in this document when received.

TOTAL POINTS

165

RECOMMENDED SENTENCE

LIFE ??

PERMITTED SENTENCE

27-100

TOTAL SENTENCE IMPOSED

LIFE

REASONS FOR DEPARTURE

JUDGE BROOME

PREPARER

KOLKER

EXHIBIT

D

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH
COUNTY, FLORIDA -
CRIMINAL DIVISION "V"

CASE NO. 1992CF013092AXX

STATE OF FLORIDA
Plaintiff,

vs.

NATHAN ALVARADO,
Defendant.

**ORDER DENYING DEFENDANT ALVARADO'S *PRO SE* MOTION
TO VACATE, SET ASIDE, OR CORRECT JUDGMENT AND SENTENCE**

THIS CAUSE came before the Court on Defendant Nathan Alvarado's ("defendant") *Pro Se* Motion to Vacate, Set Aside, or Correct Judgment and Sentence, filed on August 4, 2010 pursuant to Fla. R. Crim. P. 3.850(d), and the Court having reviewed the Defendant's *Pro Se* Motion, and having reviewed the court file and record, and being otherwise fully advised in the premises, the Court finds as follows:

This motion is the defendant's third post conviction motion, and second motion alleging ineffectiveness of counsel. Further, the defendant raised previously, in a motion to correct illegal sentence pursuant to Rule 3.800(a) the same alleged illegal sentencing guideline calculations that the defendant is raising in this successive motion for post conviction relief.

This Court's previous Order denying the defendant's motion to correct illegal sentence was just affirmed by the Fourth District Court of Appeal. Because this motion is a successive motion pursuant to Rule 3.850 without any basis or argument as to why it could

not have been raised in 1995 with his original Rule 3.850 motion, and also because the ground raised herein was just raised by the defendant in a motion to correct illegal sentence, the Court finds this *pro se* motion to be brought without any factual or legal basis and the Court further finds this *pro se* motion to vacate, set aside, or correct judgment and sentence constitutes an abuse of the process. **WHEREFORE**, it is hereby


ORDERED and ADJUDGED that Defendant Nathan Alvarado's *Pro Se* Motion For Post Conviction Relief is **DENIED** on its merits without further hearing. It is further

ORDERED and ADJUDGED the Defendant Alvarado's *Pro Se* Motion For Post Conviction Relief is successive because the defendant has failed to allege new or different grounds that were unable to be brought to the Court's attention in prior motions for post conviction relief, and, therefore, the instant motion is filed without any factual or legal basis and thus constitutes an abuse of procedure. See Fla. R. Crim. P. 3.850(f). It is further

ORDERED and ADJUDGED that the defendant shall show cause within thirty (30) days as to why any further motions filed by the defendant *pro se* shall not be received and docketed by the Clerk of Court. It is further

ORDERED and ADJUDGED that the Defendant has thirty (30) days in which to appeal this Order.

DONE and ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida, this 16 day of August, 2010.


JOHN S. KASTRENAKES
Circuit Judge

EXHIBIT

C

EX-1

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH
COUNTY, FLORIDA -
CRIMINAL DIVISION "V"

CASE NO. 1992CF013092AXX

STATE OF FLORIDA
Plaintiff,

vs.

NATHAN ALVARADO,
Defendant.

**ORDER FINDING NO GOOD CAUSE SHOWN AND PROHIBITING
DEFENDANT ALVARADO FROM FILING ANY FUTURE PLEADINGS
IN THIS CASE, UNLESS SUCH PLEADINGS ARE SIGNED BY
A MEMBER IN GOOD STANDING OF THE FLORIDA BAR ASSOCIATION**

THIS MATTER came before the Court on this Court's August 16, 2010 Show Cause Order in its denial of Defendant Nathan Alvarado's ("defendant") Multi-Successive *Pro Se* Motion to Vacate, Set Aside, or Correct Judgment and Sentence, filed on August 4, 2010 pursuant to Fla. R. Crim. P. 3.850(d), and the Court having reviewed the Defendant's *Pro Se* Response to the Show Cause Order filed August 27, 2010, and having reviewed the court file and record, and being otherwise fully advised in the premises, the Court finds as follows:

1. This Court attaches and incorporates its prior Order issued August 16, 2010, which contains findings and required the Defendant to show cause in writing why this Court should not prohibit Defendant from filing any future pleadings in this matter, unless such pleadings are signed by a member in good standing with the Florida Bar Association.

I

2. The Court finds the Defendant's *pro se* "Motion To Disqualify Judge and Response To Order To Show Cause," a twenty two (22) page document, including attachments, demonstrates no good cause to avoid the Court's prohibition against further *pro se* pleadings.¹

3. Further *pro se* filings could result in this Court's recommendation to the Department of Corrections for a forfeiture of gain time in the event of any future filings. See *State v. Spencer*, 751 So.2d 47 (Fla. 1999); *Hall v. State*, 752 So. 2d 575 (Fla. 2000).

Accordingly, it is hereby

ORDERED and ADJUDGED as follows:

1. The Defendant's is strictly prohibited from filing future pleadings in this matter, unless such pleadings are signed by a member in good standing with the Florida Bar Association. The Defendant is on notice that any further pleadings not signed by a member in good standing with the Florida Bar Association may result in sanctions imposed by the Department of Corrections.

2. The Clerk of Court for the Fifteenth Judicial Circuit shall not accept any future pleadings in this matter that are not signed by a member in good standing with the Florida Bar Association.

3. The Clerk of Circuit Court for the Fifteenth Judicial Circuit is ordered to forward a certified copy of this Order to the Department of Corrections, Everglades Correctional Institution.

4. Defendant has thirty (30) days in which to appeal this Order.

¹ The Court has denied defendant Alvarado's *Pro Se* Motion To Disqualify Trial Judge by separate Order.

EXHIBIT

D

EX J

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2011

NATHAN ALVARADO,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D10-4282

[October 26, 2011]

PER CURIAM.

Affirmed.

POLEN, DAMOORGIAN and CONNER, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; John Kastrenakes, Judge; L.T. Case No. 1992CF013092AXX.

Nathan Alvarado, Miami, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing.

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