

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO: 05-2011-CF-48657-AXXX-XX

STATE OF FLORIDA,
Plaintiff,

v.

JOHNNY L. SMITH, JR.,
Defendant.

**ORDER DISMISSING DEFENDANT'S "PETITION FOR LEAVE OF ADMINISTRATIVE JUDGE
TO FILE EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS"**

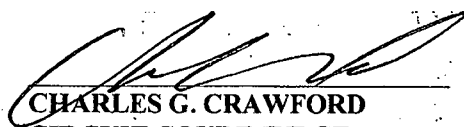
THIS CAUSE came before the Court upon the Defendant's "Petition for Leave of Administrative Judge to File Emergency Petition for Writ of Habeas Corpus" filed on March 19, 2024. The Court has issued an Order on even date herewith which prohibits the Defendant from filing any further pro se post-conviction pleadings. Because the instant motion was filed pro se, the Court will not address the motion.

Accordingly, it is **ORDERED AND ADJUDGED:**

The Defendant's pro se "Petition for Leave of Administrative Judge to File Emergency Petition for Writ of Habeas Corpus" is **DISMISSED**.

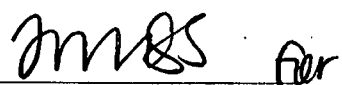
DONE AND ORDERED in Viera, Brevard County, Florida, this 15th day of

May, 2024.


CHARLES G. CRAWFORD
CIRCUIT COURT JUDGE

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing was furnished by U.S. mail to **Johnny L. Smith, Jr., DC #705074**, Okaloosa Correctional Institution, 3189 Colonel Greg Malloy Road, Crestview, Florida 32539-6709; and by e-service to the **Office of the State Attorney**, BrevFelony@sa18.org, this 2nd day of May, 2024.


Tatum Reed
Judicial Assistant
Eighteenth Judicial Circuit
Moore Justice Center
2825 Judge Fran Jamieson Way
Viera, Florida 32940

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA**

CASE NO: 05-2011-CF-48657-AXXX-XX

**STATE OF FLORIDA,
Plaintiff,**

v.

**JOHNNY L. SMITH, JR.,
Defendant.**

**ORDER BARRING DEFENDANT FROM FILING PRO SE MOTIONS
FOR POST-CONVICTION RELIEF PURSUANT TO RULE 3.850 AND RULE 3.800**

THIS COURT issued an Order on November 8, 2023 denying the Defendant's Emergency Petition for Writ of Habeas Corpus and Order to Show Cause why he should not be prohibited from filing further pro se motions with the Court pursuant to State v. Spencer, 751 So. 2d 47 (Fla. 1999) (Exhibit A, Order without exhibits). The Defendant filed a response on December 22, 2023 (Exhibit B, Response). After reviewing the Defendant's response, the Court finds the Defendant has not shown any reason why he should not be barred from filing further pro se Rule 3.850 or Rule 3.800 post-conviction motions. By filing successive pleadings raising the same issues previously decided adversely to him, the Defendant has abused the judicial process and has wasted precious judicial resources. Accordingly, it is:

ORDERED AND ADJUDGED:

1. The Defendant is prohibited from filing any further motions for post-conviction relief pursuant to Rule 3.850 or Rule 3.800, Florida Rules of Criminal Procedure, without representation by an attorney in good standing with the Florida Bar.

2. The Clerk of Court is instructed to reject any further pro se Rule 3.850 or Rule 3.800 motions for post-conviction relief attacking the legality of the Defendant's conviction or sentence in this case unless such pleading is signed by an attorney. The Court will ignore any such collateral

pleadings filed by the Defendant, unless signed by an attorney in good standing with the Florida Bar.

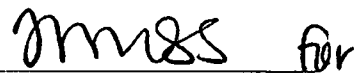
DONE AND ORDERED in Viera, Brevard County, Florida, this 1st day of

May, 2024.


CHARLES G. CRAWFORD
CIRCUIT COURT JUDGE

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing was furnished by U.S. mail to **Johnny L. Smith, Jr., DC #705074**, Okaloosa Correctional Institution, 3189 Colonel Greg Malloy Road, Crestview, Florida 32539-6709; and by e-service to the **Office of the State Attorney**, BrevFelony@sa18.org, this 2nd day of May, 2024.


Tatum Reed
Judicial Assistant
Eighteenth Judicial Circuit
Moore Justice Center
2825 Judge Fran Jamieson Way
Viera, Florida 32940

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO: 05-2011-CF-48657-AXXX-XX

STATE OF FLORIDA,
Plaintiff,

v.

JOHNNY L. SMITH, JR.,
Defendant.

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ORDER DENYING DEFENDANT'S EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WHY HE SHOULD NOT BE PROHIBITED FROM FILING FURTHER PRO SE MOTIONS WITH THE COURT

THIS CAUSE came before the Court upon the Defendant's Emergency Petition for Writ of Habeas Corpus filed on October 13, 2023 which the Court will consider pursuant to Rule 3.850(b), Florida Rules of Criminal Procedure. The Court having reviewed the Defendant's motion and the official court file, and being otherwise fully advised in the premises, makes the following findings of fact and conclusions of law:

a. The Defendant was found guilty by a jury on February 21, 2013 and was sentenced on May 15, 2013 to 32 years in the Department of Corrections (Exhibit A, Verdict and Exhibit B, Judgment). The Defendant's judgment and sentence were per curiam affirmed on February 17, 2015 with a mandate issued on March 13, 2015 (Exhibit C, Decision and Mandate).

b. The Defendant filed his first Rule 3.850 motion on July 14, 2015 which was denied on July 28, 2015 (Exhibit D, Order without exhibits).

c. The Defendant filed his second Rule 3.850 motion on May 16, 2016 which was denied on September 6, 2016 (Exhibit E, Order without exhibits). This denial was per curiam affirmed on December 13, 2016 with a mandate issued on January 6, 2017 (Exhibit F, Decision and Mandate).

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Exhibit "A"

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA**

CASE NO: 05-2011-CF-48657-AXXX-XX

**STATE OF FLORIDA,
Plaintiff,**

v.

**JOHNNY L. SMITH, JR.,
Defendant.**

FILED IN VIERA
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**ORDER DENYING DEFENDANT'S EMERGENCY PETITION FOR
WRIT OF HABEAS CORPUS AND
ORDER TO SHOW CAUSE WHY HE SHOULD NOT BE PROHIBITED
FROM FILING FURTHER PRO SE MOTIONS WITH THE COURT**

THIS CAUSE came before the Court upon the Defendant's Emergency Petition for Writ of Habeas Corpus filed on October 13, 2023 which the Court will consider pursuant to Rule 3.850(b), Florida Rules of Criminal Procedure. The Court having reviewed the Defendant's motion and the official court file, and being otherwise fully advised in the premises, makes the following findings of fact and conclusions of law:

- a. The Defendant was found guilty by a jury on February 21, 2013 and was sentenced on May 15, 2013 to 32 years in the Department of Corrections (Exhibit A, Verdict and Exhibit B, Judgment). The Defendant's judgment and sentence were per curiam affirmed on February 17, 2015 with a mandate issued on March 13, 2015 (Exhibit C, Decision and Mandate).
- b. The Defendant filed his first Rule 3.850 motion on July 14, 2015 which was denied on July 28, 2015 (Exhibit D, Order without exhibits).
- c. The Defendant filed his second Rule 3.850 motion on May 16, 2016 which was denied on September 6, 2016 (Exhibit E, Order without exhibits). This denial was per curiam affirmed on December 13, 2016 with a mandate issued on January 6, 2017 (Exhibit F, Decision and Mandate).

d. The Defendant filed his third Rule 3.850 motion on February 24, 2017 which was denied on April 24, 2017 (Exhibit G, Order without exhibits).

e. The Defendant filed his fourth Rule 3.850 motion on May 18, 2017 which was denied on July 10, 2017 (Exhibit H, Order without exhibits). This denial was per curiam affirmed on December 19, 2017 with a mandate issued on January 12, 2018 (Exhibit I, Decision and Mandate). At that time, the Court warned the Defendant that the filing of further frivolous motions could result in the Court issuing an order to show cause prohibiting the Defendant from filing any further pro se Rule 3.850 motions (See Exhibit I).

f. The Defendant filed his fifth Rule 3.850 motion on August 7, 2023 and his sixth Rule 3.850 motion on September 5, 2023. Both of these motions were denied on even date herewith via separate order.

g. The instant motion is the Defendant's seventh Rule 3.850 motion filed by the Defendant, and it is therefore successive. The Defendant's motion is also untimely and an abuse of procedure.

h. The Defendant has also filed numerous Rule 3.800(a) motions in this case. His first Rule 3.800(a) motion was filed on February 1, 2017 and denied on March 27, 2017 (Exhibit J, Order without exhibits). This denial was per curiam affirmed on June 6, 2017 with a mandate issued on June 30, 2017 (Exhibit K, Decision and Mandate).

i. The Defendant's second Rule 3.800(a) motion was filed on June 6, 2017 and was denied on August 30, 2017 (Exhibit L, Order without exhibits).

j. The Defendant's third Rule 3.800(a) motion was filed on September 24, 2018 and was denied on December 11, 2018 (Exhibit M, Order without exhibits).

k. The Defendant's fourth Rule 3.800(a) motion was filed on June 17, 2019 and was denied on September 18, 2019 (Exhibit N, Order without exhibits).

l. The Defendant's fifth Rule 3.800(a) motion was filed on March 20, 2020 and was denied on April 24, 2020 (Exhibit O, Order without exhibits).

m. The Defendant's sixth Rule 3.800(a) motion was filed on September 10, 2021 and was denied on November 5, 2021 (Exhibit P, Order without exhibits).

n. The Defendant's seventh Rule 3.800(a) motion was filed on July 13, 2022 and was denied on September 14, 2022 (Exhibit Q, Order without exhibits). This denial was per curiam affirmed on March 14, 2023 with a mandate issued on April 11, 2023 (Exhibit R, Decision and Mandate).

o. On October 4, 2019, the Fifth District Court of Appeal prohibited the Defendant from filing any further pro se motions in this case (Exhibit S, Order).

p. The Defendant's repeated filings of frivolous claims have diminished the ability of this Court to devote its finite resources to the consideration of legitimate claims. Therefore, the Court orders the Defendant to show cause why the Court should not prohibit the Defendant from filing any further pro se motions with this Court. See State v. Spencer, 751 So. 2d 47 (Fla. 1999).

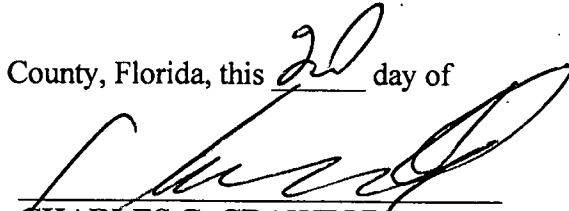
Accordingly, it is **ORDERED AND ADJUDGED:**

1. The Defendant's Emergency Petition for Writ of Habeas Corpus is **DENIED**.

2. The Defendant has 30 days from the rendition of this order to show cause why the Court should not prohibit him from filing any further pro se motions with this Court under the above-styled case number.

3. The Defendant has the right to appeal this Order within thirty (30) days of its rendition.

DONE AND ORDERED in Viera, Brevard County, Florida, this 20 day of November, 2023.


CHARLES G. CRAWFORD
CIRCUIT COURT JUDGE

CERTIFICATE OF SERVICE
STATE OF FLORIDA, COUNTY OF BREVARD

I do hereby certify that a copy of the foregoing was furnished by U.S. Mail to **Johnny Lee Smith, Jr., DC #705074**, Okaloosa Correctional Institution, 3189 Colonel Greg Malloy Road, Crestview, Florida 32539-6708; and via courier to the **Office of the State Attorney**, 2725 Judge Fran Jamieson Way, Building D, Viera, Florida 32940 this _____ day of NOV - 8 2023, 2023.

CLERK OF COURT

By: 

Deputy Clerk


Betty Martinez

EXHIBITS SENT TO: ☐ ATTORNEY
☒ DEFENDANT

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