

No. 17-8220

IN THE SUPREME COURT OF THE UNITED STATES

Richard Russell,
Petitioner,

v.

State of Florida,
Respondent.

CERTIFICATE OF GOOD FAITH ✓

COMES NOW Petitioner, Richard Russell, pro se and makes certification that his petition for rehearing is presented to this Court in good faith pursuant to Rule 44. Mr. Russell further states the following:

This Court entered its judgment denying petitioner's Writ of Certiorari on April 23, 2018. Petitioner believes that he presents this Court with adequate grounds to justify the granting of rehearing in this case and said petition is brought in good faith and not for delay. Furthermore, petitioner believes that based upon the law of this Court and facts of this case, Russell is entitled to relief which has been unjustly denied him. He further believes that if the First District Court of Appeals are continually allowed to apply this erroneous Actual Innocence standard of review, a number of people will be denied their constitutional right to due process, along with this Court's reasoning for Actual Innocence.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on this 9th day of May 2018.

Richard Russell
Richard Russell

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

RICHARD RUSSELL,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D17-3450

Opinion filed November 29, 2017.

An appeal from the Circuit Court for Escambia County.
Thomas V. Dannheisser, Judge.

Richard Russell, pro se, Appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, for Appellee.

PER CURIAM.

AFFIRMED.

WETHERELL, RAY, and WINOKUR, JJ., CONCUR.

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR ESCAMBIA COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff/Respondent,

v.

Case No.: 2008-CF-3158A
Division: "C"

RICHARD JORDAN RUSSELL,

Defendant/Petitioner.

ORDER DENYING WITH PREJUDICE DEFENDANT'S *PRO SE* PETITION FOR
HABEAS CORPUS TREATED AS A MOTION FOR POSTCONVICTION RELIEF

THIS CAUSE comes before the Court on Defendant's *pro se* "Petition for Writ of Habeas Corpus," filed June 5, 2017, properly treated as a motion for postconviction relief, pursuant to rule 3.850, Florida Rules of Criminal Procedure. After due consideration of the motion, record, and relevant legal authority, the Court finds that Defendant's motion should be denied with prejudice.

The instant motion is untimely and successive. According to rule 3.850(b), Florida Rules of Criminal Procedure, Defendant has two years from the date his judgment and sentence becomes final to file a rule 3.850 motion. Defendant's judgment and sentence became final in 2010. Furthermore, Defendant has previously filed a rule 3.850 motion and received a ruling on the merits.¹ Defendant has failed to demonstrate either an exception to the timeliness requirement, or any reason why the instant motion should not be deemed improperly successive and an abuse of procedure under rule 3.850. Because the motion does not meet an exception to

¹ See Attachment 1, Order Denying Motion for Postconviction Relief (without attachments), January 9, 2013.

the time filing requirements of rule 3.850, and is also facially insufficient, the motion shall be denied with prejudice pursuant to rule 3.850(f)(1), Florida Rules of Criminal Procedure.

ACCORDINGLY, it is **ORDERED** and **ADJUDGED** that:

1. Defendant's *pro se* Petition for Habeas Corpus treated as a motion for postconviction relief is **DENIED WITH PREJUDICE**; and
2. Defendant has thirty (30) days from the rendition date of this order to file a notice of appeal, should he so choose.

DONE and ORDERED in Chambers at Pensacola, Escambia County, Florida.


eSigned by CIRCUIT COURT JUDGE THOMAS DANNHEISSER
on 07/14/2017 14:54:26 W2uHYoLo

THOMAS V. DANNHEISSER
CIRCUIT JUDGE

TVD/mco

Service to be effectuated by the Clerk of Court upon the following:

- Richard Russell, DC#P26529, Okaloosa Correctional Institution, 3189 Colonel Greg Malloy Rd., Crestview, FL 32539
- Office of the State Attorney, ATTN: Division "C" (via electronic delivery)

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

April 23, 2018

Mr. Richard Russell
Prisoner ID #P26529 D2126u
Walton Correctional Institution
691 Institution Road
Defuniak Springs, FL 32433

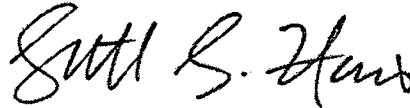
Re: Richard Russell
v. Florida
No. 17-8220

Dear Mr. Russell:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott S. Harris".

Scott S. Harris, Clerk

Appendix-A-