

FIFTH DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

---

Case No. 5D2025-1760  
LT Case No. 55-2001-CF-2098-A

---

DAVID JOSEPH NORTHUP,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

---

On appeal from the Circuit Court for St. Johns County.  
R. Lee Smith, Judge.

David Joseph Northrup, Graceville, pro se.

James Uthmeier, Attorney General, Tallahassee, and Whitney Brown Hartless, Assistant Attorney General, Daytona Beach, for Appellee.

November 14, 2025

PER CURIAM.

Appellant appeals the trial court's denial of his petition for writ of habeas corpus in St. Johns County Circuit Court Case No. 55-2001-CF-2098-A. We affirm the trial court's order and caution Appellant that abusive, repetitive, malicious, or frivolous filings directed to St. Johns County Circuit Court Case No. 55-2001-CF-2098-A may result in sanctions such as a bar on pro se filing in this

Court and referral to prison officials for disciplinary proceedings, which may include forfeiture of gain time. See § 944.279(1), Fla. Stat. (2020); *State v. Spencer*, 751 So. 2d 47 (Fla. 1999).

AFFIRMED and APPELLANT CAUTIONED.

LAMBERT, EDWARDS, and EISNAUGLE, JJ., concur.

---

*Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.*

---

IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
ST. JOHNS COUNTY, FLORIDA

CASE NO.: CF01-2098; CA25-394  
DIVISION: 56

STATE OF FLORIDA,

vs.

DAVID JOSEPH NORTHRUP,  
Defendant.

---

**ORDER DENYING DEFENDANT'S THIRD PETITION FOR WRIT OF HABEAS  
CORPUS**

THIS CAUSE came before the Court on Defendant's *pro se* Petition for Writ of Habeas Corpus filed on March 11, 2025. The Court has considered the Petition, and being fully advised in the premises finds as follows:

Defendant was charged with two counts of Sexual Battery (victim less than 12 years of age), one count of Lewd and Lascivious Molestation, and two counts of Sexual Performance by a Child. On November 9, 2002, Defendant pled no contest to one count of Sexual Battery in consideration for the State's agreement to drop the four remaining counts. Defendant was sentenced to life in prison and his judgment and sentence was affirmed on appeal and a Mandate issued June 13, 2003.

While the appeal was pending, Defendant filed a postsentence motion to withdraw his plea. That motion was denied without prejudice. Subsequent to the appeal, Defendant filed a second postsentence motion to withdraw his plea and a motion for a competency evaluation. A postsentence competency evaluation was ordered and after reviewing the evaluation and a hearing, the Court determined that Defendant was not incompetent when he entered his plea. Accordingly,

Defendant's second motion was denied on the merits and affirmed on appeal. Thereafter, Defendant filed a Motion for Postconviction Relief and Defendant's motion was denied on the merits and affirmed on appeal. On November 30, 2007, Defendant filed a second Motion for Postconviction Relief which was denied as successive. On February 26, 2010, Defendant filed a third Motion for Postconviction Relief to which the State was ordered to respond. The State filed its response on September 24, 2010. On October 13, 2010, the Court entered an Order dismissing Defendant's Motion for Postconviction Relief as untimely and successive.

On May 23, 2019, Defendant filed a Petition for Writ of Habeas Corpus alleging manifest injustice. On June 11, 2019, the Court entered an Order Denying Petition for Writ of Habeas Corpus. Defendant's appeal was ultimately dismissed on November 25, 2019. On July 22, 2022, Defendant filed a *pro se* Motion to Correct Illegal Sentence that was denied on August 17, 2023. Defendant's appeal of this Court's order was denied January 29, 2024. On January 25, 2023, Defendant filed a *pro se* "Motion for Relief from Judgment Order," which was denied on November 22, 2023. On March 21, 2022, Defendant filed his *pro se* Second Petition for Writ of Habeas Corpus. On December 21, 2023, the Court entered an Order Denying Petition for Writ of Habeas Corpus. Defendant did not appeal.

In this Petition, Defendant again petitions the Court to correct a "manifest injustice." First, Defendant asserts his plea was not knowingly and intelligently entered due to his mental condition. Second, Defendant contends that his right to access to courts was compromised because fellow inmates known as "jailhouse lawyers" were incompetent in assisting him in preparing postconviction motions.

Habeas proceedings cannot be used to litigate issues that should have been raised on direct appeal or in a Rule 3.850 motion. *Richardson v. State*, 918 So, 2d 999, 1003-1004 (Fla. 5th DCA

2006). As the Florida Supreme Court observed in *Baker*, habeas corpus petitions that seek the kind of collateral postconviction relief available through a motion filed in the sentencing court, and which (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, may be dismissed as unauthorized. *Id.* at 1245-46. As discussed above, this claim could have been raised in his first motion for postconviction relief. Consequently, Defendant is not entitled to habeas relief on this claim. Defendant's mental condition at the time of his plea has been the subject of numerous motions and petitions. Consequently, the Court finds that Defendant's claims are meritless, and he has not established that a "manifest injustice" occurred.

Second, in the Third Petition, Defendant petitions the Court to correct a "manifest injustice," and he should be able to restart the postconviction procedures as if he had just been sentenced instead of over twenty years later. Defendant relies on the holding in *Bounds v. Smith*, 430 U.S. 817, 828, 97 S.Ct. 1491, 52 L.Ed.2d 72 (1977). ([The right to access of court] "require[s] prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law."). The State meets its constitutional obligation by providing "adequate law libraries or adequate assistance from persons trained in the law." The state is not required to provide both. *Henry v. State*, 124 So. 3d 958, 959 (Fla. 5th DCA 2013). Defendant does not allege that he did not have access to a law library. Therefore, his second claim has no merit as well.

As a final note, the Court observes that over the past two decades, Defendant has filed a litany of motions alleging entitlement to postconviction relief, the overwhelming majority of which have been successive, untimely, or meritless. For the reasons set forth herein, the Court finds that the instant motion constitutes yet another frivolous postconviction filing. Our appellate courts have determined that the repetitive filing of postconviction motions that are procedurally barred or lack merit constitutes an abuse of the postconviction process. *See Martin v. State*, 747 So.2d 386, 390 (Fla. 2000) (“A person should not be permitted to litigate the same claims over and over again merely because he continues to believe he has always been right. … At some point, it must stop.”); *Holmes v. State*, 669 So.2d 360, 361 (Fla. 5th DCA 1996) (“*Pro se* prisoners have a greater capacity than most to disrupt the fair allocation of judicial resources because they are not subject to the financial considerations – filing fees and attorney’s fees – that deter other litigants from filing frivolous petitions.”) (*quoting In re Sindram*, 498 U.S. 177 (1991)); *Isley v. State*, 652 So.2d 409, 410-11 (Fla. 5th DCA 1995) (“enough is enough”). Consequently, the Court will take the opportunity to caution Defendant that any future filings challenging his conviction and sentence in the instant case should be filed in good faith, and Defendant should exercise caution in ensuring that his claims are meritorious and are not time-barred or successive. If the Court finds that any future filing subsequent to the date of entry of this Order is meritless on its face, Defendant will be ordered to show cause as to why he should not be banned from filing any future *pro se* motions challenging his conviction and sentence in the instant case due to abuse of the postconviction process and sanctioned to the gain time sanctions set forth in Fla. Stat. § 944.28. *State v. Spencer*, 751 So.2d 47 (Fla. 1999).

Accordingly, it is:

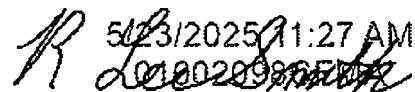
**ORDERED AND ADJUDGED that:**

APP;B

DAVID JOSEPH NORTHRUP vs. STATE OF FLORIDA  
LT. CASE NO: 01002098CFMA; CA25-0394  
HT. CASE NO: 5D25-1760

1. Defendant's Third Petition for Habeas Corpus is DENIED.
2. Defendant has the right to appeal within thirty (30) days of the rendition of this Order.

**DONE AND ORDERED** in chambers, in St. Johns County, Florida, on 23 day of May, 2025.



e-Signed 5/23/2025 11:27 AM 01002098CFMA  
Circuit Judge

Copies to:

Office of the State Attorney

David J. Northup, DC# V13733  
Graceville Correctional Facility  
5168 Ezell Rd.  
Graceville, Florida 32440