

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT IN
AND FOR SUMTER COUNTY, FLORIDA**

CHARLIE SESLER,

Petitioner

vs.

CASE NO.: 2021-CA-113

**MARK INCH, SECRETARY OF DEPARTMENT
OF CORRECTIONS; ET AL.,**

Respondents.

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ORDER ON EMERGENCY PETITION FOR WRIT OF A HABEAS CORPUS UNLAWFUL DETENTION

THIS COURT having considered Petitioner's Emergency Petition for Writ of a Habeas Unlawful Detention, filed on February 23, 2021, makes the following findings:

A. Petitioner asserts he is innocent of a charged crime since his co-defendant is responsible for committing the crime based upon scientific testing results confirmed on April 28, 1992.

B. When a petitioner attacks the validity of the conviction by raising issues relating to the trial or the propriety of the plea, jurisdiction lies with the trial court that imposed the sentence and rendered the judgment of conviction. Richardson v. State, 918 So.2d 999, 1001 (Fla. 5th DCA 2006); Collins v. State, 859 So.2d 1244 (Fla. 5th DCA 2005). Habeas proceedings may not be used to present issues that should have been raised in a Rule 3.850 motion or claims that should have been raised on appeal, nor may it be used to obtain a second appeal. Id. at 1002-1003. The proper disposition for such claims is dismissal, rather than denial. McLeod v. State, 899 So.2d 506 (Fla. 5th DCA 2005).

C. In this case, Petitioner is asserting a claim that should have been presented in a Rule 3.850 motion and/or on appeal.

Based upon the foregoing, it is hereby;

ORDERED AND ADJUDGED that the Petitioner's Emergency Petition for Writ of a Habeas Unlawful Detention is hereby DISMISSED.

DONE AND ORDERED in Chambers, at Bushnell, Sumter County, Florida, on this 25th day of February 2021.



Mary P. Hatcher
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to the following by E-Service through the Florida Courts E-Portal on this 27th day of February 2021.



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