

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

DAVID WRIGHT,

Petitioner,

vs.

CASE NO.: 2021-CA-189

**WARDEN JOHN DABELL,
SUMTER CORRECTIONAL INSTITUTION,**

Respondent.

_____ /

ORDER ON PETITION FOR EMERGENCY WRIT OF HABEAS CORPUS

THIS CAUSE came before the Court upon Petitioner's Emergency Petition for Writ of Habeas Corpus, filed on April 12, 2021. Petitioner asserts he is entitled to immediate release since he is entitled to gain time.

A petition for writ of habeas corpus shall be granted when any person shows by affidavit or evidence probable cause to believe that he or she is detained without lawful authority. See Section 79.01, Florida Statutes (2006). "The burden of proof in a habeas corpus proceeding is on the petitioner, who must back up his allegations with evidence." Mattern v. Fla Parole Com'n, 707 So.2d 806, 808 (Fla. 4th DCA 1998) (citing Kohler v. Sandstrom, 305 So.2d 76, 77 (Fla. 3d DCA 1974)). "General allegations are insufficient to demonstrate entitlement to relief." Id. (citing Reaves v. State, 593 So.2d 1150, 1151 (Fla. 1st DCA 1992)).

Gain time and release are revoked for an Inmate who violates a condition of release prior to the expiration of their full, pronounced prison term, and the Inmate may be re-incarcerated for the balance of their term. Dwyer v. State, 981 So.2d 606 (Fla. 4th DCA 2008). In order to restore gain time, the Inmate's sole remedy is through the

administrative grievance process. See Fla. Admin. Code 33-601.103. [A] trial court lacks authority to direct Department of Corrections (DOC) to award administrative gain time or provisional credits. Erickson v. State, 687 So.2d 1320 (Fla. 2nd DCA 1997). The authority to regulate gain time resides with the Department of Corrections. Miller v. State, 882 So.2d 480 (Fla. 5th DCA 2004).

In this case, Petitioner has failed to show probable cause that he is being illegal detained.

Based upon the foregoing, it is hereby

ORDERED AND ADJUDGED that Petitioner's Petition for Emergency Writ of Habeas Corpus is hereby DISMISSED.

DONE AND ORDERED in Chambers, at Bushnell, Sumter County, Florida, on this 19th day of April 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 individual by U.S. Mail on this 21st day of April 2021.

David Wright
DC# 064563
Sumter Correctional Institution
9544 C.R. 476B
Bushnell, FL 33513-0667



Judicial Assistant