

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

**GERALD DEAN YOUNG,**

**Petitioner**

**vs.**

**CASE NO.: 2021-CA-561**

**MARK INCH, THE STATE OF FLORIDA,**

**Respondent.**

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**ORDER ON PETITIONER'S MOTION TO CONSOLIDATE**

**AND**

**ORDER ON PETITIONER'S AMENDED PETITION FOR WRIT OF  
HABEAS CORPUS FILED ON JANUARY 5, 2022**

**THIS COURT** having considered Petitioner's Motion to Consolidate, filed on January 5, 2022; and having considered the record in this case, including Petitioner's Petition for Writ of Habeas Corpus, attached to the Motion to Consolidate; makes the following findings:

A. In the Motion to Consolidate, Petitioner requests the Court to consider the attached Petition for Writ of Habeas Corpus. The Court has considered the attached Petition for Writ of Habeas Corpus and deems it an Amended Petition for Writ of Habeas Corpus.

B. Petitioner asserts the following grounds for a writ of habeas corpus; (1) Petitioner was sentenced under an indefinite sentencing statute; (2) The FDOC and COOR are in violation of the prohibition against indefinite imprisonment; and (3) The sentencing judgment has expired due to lack of execution by the FDOC and COOR.

C. 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. “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)).

D. 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. 5<sup>th</sup> DCA 2006); Collins v. State, 859 So.2d 1244 (Fla. 5<sup>th</sup> 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. 5<sup>th</sup> DCA 2005).

E. 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** as follows:

1. Petitioner’s Motion to Consolidate is hereby GRANTED.
2. The Court has considered the Petition for Writ of Habeas Corpus

attached to the Motion to Consolidate and deems it an Amended Petition for Writ of Habeas Corpus.

3. Petitioner's Amended Petition for Writ of a Habeas is hereby DISMISSED.

**DONE AND ORDERED** in Chambers, at Bushnell, Sumter County, Florida, on this 18<sup>th</sup> day of January 2022.

  
**Mary P. Hatcher**  
Circuit Judge

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true copy of the foregoing has been furnished to the following individuals by U.S. Mail, on this 19<sup>th</sup> day of January 2022.

Gerald Dean Young  
DC# 363305  
Sumter Correctional Institution  
9544 County Road 476B  
Bushnell, FL 33513-0667

BY:   
Judicial Assistant