

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

CLERK OF CIRCUIT
AND COUNTY COURT
LAKE COUNTY
TAVARES FLORIDA

STATE OF FLORIDA,

CASE NO: 35-2010-CF-000025-AXXX-XX

v.

BRUCE WAYNE WEBBER,
_____ /

ORDER ON PETITION FOR ISSUANCE OF A WRIT OF HABEAS CORPUS

THIS CAUSE came before the Court for review and consideration without a hearing upon the Defendant's *pro se* Petition for Issuance of a Writ of Habeas Corpus ("Petition") which was filed on January 20, 2022 (mailbox rule), and the Court, having reviewed said Petition and other pertinent documents in the Court file, and being otherwise fully advised in the premises, finds and concludes as follows:

**I.
PROCEDURAL HISTORY**

1. On December 31, 2009, the Petitioner was arrested in this case.
2. On January 21, 2010, the State filed an Information charging the Petitioner with three alleged crimes. They are Count I: Burglary of a Dwelling- Standard Dwelling; Count II: Grand Theft- \$300 or more but less than \$20,000; and Count III: Possession of Paraphernalia.
3. On January 29, 2010, the State filed its Notice of Intent to Seek Habitual Felony Offender Status.
4. The Petitioner entered a plea of nolo contendere as to count III and was sentenced to time served. The Petitioner proceeded to trial on Counts I and II. The jury returned a guilty verdict as to both counts on June 22, 2010.
5. As to Count I, the Petitioner was sentenced as a habitual felony offender to twenty-five (25) years in the custody of the Department of Corrections. He was sentenced to fifteen (15) years mandatory minimum as a prison releasee reoffender. The Petitioner received two hundred fifty-two (252) days credit time served. As to Count II, the Petitioner was sentenced to time served.
6. The Fifth District Court of Appeal per curiam affirmed the judgment and sentence on May 31, 2011, and issued its Mandate on July 18, 2011. (See Composite Exhibit A).

7. In his Petition, the Petitioner argues that he should have been evaluated for competency prior to trial. His claims his trial counsel and appellate counsel were ineffective for failing to preserve the competency issue for appeal. The Petitioner alleges that he has lived in Lake County all his life, receives disability, and takes medication for schizoaffective disorder and bipolar disorder. In addition, the Petitioner argued that the trial court's failure to complete an independent investigation to determine if the Petitioner was competent to stand trial resulted in a violation of his due process rights. (See Exhibit B).

II. ANALYSIS

8. Although claims of ineffective assistance of counsel are cognizable in habeas corpus petitions, "using a different argument to relitigate an issue in postconviction proceedings is not appropriate." *Porter v. Dugger*, 559 So.2d 201, 203 (Fla. 1990). "The purpose of a habeas petition is not to challenge the judicial action that places a petitioner in jail; rather, it challenges the detention itself." *Jones v. Florida Parole Com'n*, 48 So.3d 704, 710 (Fla. 2010). "[A] petition for writ of habeas corpus 'shall not be entertained' when the issues raised by the defendant may be considered in a motion filed under [rule 3.850]. The courts have also consistently held that habeas proceedings may not be utilized to present issues that should have been raised on appeal or to obtain a second appeal." *Richardson v. State*, 918 So.2d 999, 1002-3 (Fla. 5th DCA 2006).

9. "Since the adoption of rule 3.850 and its predecessor, the courts have consistently held that it is inappropriate to collaterally attack a conviction through the process of habeas proceedings because such claims are cognizable under [rule 3.850]." *Id.* at 1002. "[H]abeas corpus petitions that seek to obtain collateral relief regarding claims that could or should have been raised on direct appeal of the judgment and sentence...should not be treated as Florida Rule of Criminal Procedure 3.850 motions, but rather should be dismissed." *Id.* at 1003-4.

10. In his Petition, Defendant does not challenge his detention. Rather, he collaterally attacks the trial court proceedings. (See Exhibit B). Such issues should have been raised on appeal or by post-conviction motion. Therefore, his claims are procedurally barred.

III. CONCLUSION

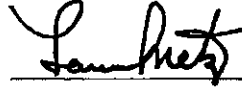
Based on the foregoing findings and analysis, it is **ORDERED** as follows:

State of Florida v. Bruce Wayne Webber
Lake County Circuit Court Case No.: 35-2010-CF-000025-XXXX-XX
Order on Petition for Issuance of a Writ of Habeas Corpus

A. The Defendant's Petition for Issuance of a Writ of Habeas Corpus filed *pro se* on January 20, 2022 (mailbox rule) is **DISMISSED**.

B. This Order may be appealed to the Fifth District Court of Appeal within thirty (30) days from the date of its rendition.


DONE and **ORDERED** in Chambers at Tavares, Lake County, Florida this 13th day of April 2022.



LARRY METZ, CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was served via hand or mail delivery or electronic service to Bruce Wayne Webber, DC # 711902, 216 S.E. Corrections Way, Lake City, Florida 32025-2013, Office of the State Attorney, and the Clerk of Court this 14 day of April 2022.

By: 

DEPUTY CLERK

10-25-CF

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT
JANUARY TERM 2011

BRUCE WAYNE WEBBER,
Appellant,

**NOT FINAL UNTIL THE TIME EXPIRES
TO FILE REHEARING MOTION, AND,
IF FILED, DISPOSED OF.**

v.

Case No. 5D10-3360

STATE OF FLORIDA,
Appellee.

Decision filed May 31, 2011

Appeal from the Circuit Court
for Lake County,
G. Richard Singeltary, Judge.

James S. Purdy, Public Defender, and
Rose M. Levering, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Anthony J. Golden,
Assistant Attorney General, Daytona
Beach, for Appellee.

CRIMINAL DIVISION
2011 JUL 19 A 9:54
CLERK OF CIRCUIT
AND COUNTY COURT
LAKE COUNTY
DAYTONA BEACH, FLORIDA

PER CURIAM.

AFFIRMED.



MONACO, C.J., GRIFFIN and COHEN, JJ., concur.



#107
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Bruce Wayne Webber

M A N D A T E

from

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

FIFTH DISTRICT

THIS CAUSE HAVING BEEN BROUGHT TO THIS COURT BY APPEAL OR BY PETITION, AND AFTER DUE CONSIDERATION THE COURT HAVING ISSUED ITS OPINION OR DECISION;

YOU ARE HEREBY COMMANDED THAT FURTHER PROCEEDINGS AS MAY BE REQUIRED BE HAD IN SAID CAUSE IN ACCORDANCE WITH THE RULING OF THIS COURT ATTACHED HERE TO AND INCORPORATED AS PART OF THIS ORDER, AND WITH THE RULES OF PROCEDURE AND LAWS OF THE STATE OF FLORIDA.

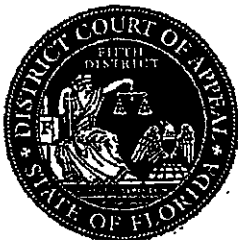
WITNESS THE HONORABLE RICHARD B. ORFINGER, CHIEF JUDGE OF THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FIFTH DISTRICT, AND THE SEAL OF THE SAID COURT AT DAYTONA BEACH, FLORIDA ON THIS DAY.

DATE: July 18, 2011

FIFTH DCA CASE NO. 5D10-3360

COUNTY OF ORIGIN: Lake

TRIAL COURT CASE NO. 2010-CF-25-A



Susan Wright
SUSAN WRIGHT
CLERK

CLERK OF CIRCUIT
AND COUNTY COURT
LAKE COUNTY
TAVARES FLORIDA
2011 JUL 19 A 9:54
FELONY DIVISION



#106
SD



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IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL -
CIRCUIT IN AND FOR LAKE COUNTY, FLORIDA...

CASE# Number: 35-2010-CF-000025 -
AXXX-XX

FLORIDA STATE
VS
Bruce WAYNE Webber
defendant

LEGAL MAIL PROVIDED TO
COLUMBIA CORRECTIONAL INSTITUTION
CV 10022 (DATE FOR MAILING)
Staff Initial: [Signature] Initial: [Signature]

CLERK OF CIRCUIT
AND COUNTY COURT
LAKE COUNTY
FLORIDA

2012 JUN 25 PM 3:58

PETITION FOR ISSUANCE OF
A WRIT OF Habeas Corpus ...

Comes Now Bruce W Webber, the defendant in -
A PROSE PURSUANT TO THE STATE CONSTITUTION, ARTICLE
I, SECTION 13, THE FLORIDA STATUTE(S) SECTION 79 AND -
THE UNITED STATE CONSTITUTIONS ARTICLE 10 AND -
AMENDMENT(S) (6) AND FOURTEEN (14) TO RESPECTFULLY
MOVE AND PETITION THIS COURT FOR ISSUANCE OF -
THE EXTRAORDINARY WRIT OF HABEAS CORPUS AS HE
THE PRO-SE DEFENDANT BELIEVES HE IS ENTITLED TO
THE RELIEF SOUGHT HEREIN AND FILES THIS PETITION -
FOR GOOD CAUSE AND IN GOOD FAITH, THE CONSTITUTION
DECLARES AND PROHIBITS THE STATE OF FLORIDA FROM
HOLDING CRIMINAL PROCEEDING WHEN THE ACCUSED
OR DEFENDANT IS MENTALLY INCOMPETENT DENIES -
THAT DEFENDANT'S CONSTITUTIONAL RIGHTS TO A FAIR
TRIAL" AS IN THE INSTANT CASE# 35.2010.CF.000025

JURISDICTION

The petitioner seeks to invoke this Honorable
Court's JURISDICTION in accordance with Florida
Rules of Appellate procedure (F.R.A.P.) ORIGINAL -

JURISDICTION RULES (19) 9.100 AND 9.030 THE FLORIDA CONSTITUTION ARTICLE V. SECTION 2ND STATE'S "NO" CAUSE SHALL BE DISMISSED BECAUSE IMPROPER REMEDY HAS - BEEN SOUGHT" THE STANDARD OF REVIEW IN AN ABUSE OF JUDICIAL DISCRETION CONFLICT OF SANITY ISSUE, UNDER THE GOVERNING RULE(S) 3.210(b) AND 3.212.(b) AS WELL AS INEFFECTIVE ASSISTANCE - OF COUNSEL AND FRAUD CONSTITUTES AND REQUEST FOR REVIEW....

STATEMENT OF FACTS

THE DEFENDANT WAS CHARGED BY INFORMATION WITH BURGLARY - OF A DWELLING, GRAND THEFT (300.00 OR MORE BUT LESS THAN 20,000 AND POSSESSION OF PARAPHERNALIA. THE DEFENDANT ENTERED A PLEA OF NOLO-CONTENDERE TO COUNT THREE POSSESSION OF PARAPHERNALIA. THE JURY FOUND HIM GUILTY TO COUNT 1-2 - DROP THREE THE JUDGE SENTENCING COURT IMPOSED A SENTENCE OF 25 YEARS PLUS 15 YEARS HFO AND PRR.....

LEGAL CONTENT(S)

ANY ORDER OBTAINED BY FRAUDULENT REPRESENTATION TO A COURT MAY BE RECALLED AND SET ASIDE WHETHER ENTERED IN A CIVIL (OR) CRIMINAL CASE... COURT ORDER THAT ARE THE PRODUCT OF FRAUD, COLLUSION, DECEIT, OR MISTAKE MAY SET ASIDE AT ANY TIME THE POWER TO SET SUCH ORDER ASIDE IS AN INHERENT POWER OF THE COURTS OF RECORDS AND ONE WHICH IS "ESSENTIAL" TO INSURE THE TRUE ADMINISTRATION OF JUSTICE AND ORDERLY FUNCTION OF THE JUDICIAL PROCESS" STATE - V. BURTON, 314 SO2D - 136 (FLA 1975). A FINAL ORDER PROCURED BY FRAUDULENT

TESTIMONY OR THE MISREPRESENTATION OF FACTS AND
 DUE PROCESS AGAINST THE ACCUSED IN A CRIMINAL CASE
 IS DESERVING OF (NO) PROTECTION AND DUE PROCESS REQUIRES
 THAT DEFENDANT THE ACCUSED BE GIVEN EVERY OPPORTUNITY
 TO EXPOSE THE FRAUD AND OBTAIN RELIEF THERE FROM
 AS PRESENTED HEREIN SEE STATE-V-Glover 564 So-2d
191-(FLA 5th DCA 1990) - STATE-V-Crenos 477 So-2d
984-(FLA 1985). AND Booker-V-STATE 503 So 2d-
888-(FLA 1987) IT IS APPARENT FROM THE EXISTING
 COURT'S RECORDS AND THE OPINION OF THE F.5TH-
 (5TH) DISTRICT COURT OF APPEAL. THE COURT OPINION
 IS PREDICATED ON A PRESUMPTION OF CORRECTNESS
 THAT ONE THE LOWER COURT'S FOLLOWED THE PETITIONER
 MENTAL EVALUATION THAT WAS (NEVER DONE) THE -
 DEFENDANT SHOULD OF BEEN SEEN BY DOCTOR LIKE
 HE HAS ALL HIS LIFE... EXPERT DR IN THE SAME -
 COUNTY LAKE COUNTY... THE DEFENDANT HAS HAD THE
 SAME JUDGE 5 FIVE TIME'S AND SHOULD OF HAD ANOTHER
 COMPETENCY HEARING COCHRAN-V-STATE 925 So 2d
370 id 371. TRIAL COURTS INDEPENDENT INVESTIGATION
 INTO THE PETITIONER COMPETENCY TO STAND TRIAL IS
 NOT SUFFICIENT TO ENSURE THAT HE THE PETITIONER IS
 NOT DEPRIVED OF HIS DUE PROCESS RIGHTS (NOT)
 TO BE TRIED WHILE INCOMPETENT AS STATED AND
 INQUIRED BY THE TRIAL COURT IN THE INSTANT...
 PETITIONER SEE Dougherty-V-STATE 149 So 3d 672-
(FLA 2014) THE HIGHER COURT'S LANGUAGE AND USE THE
 TERM "MUST" IMPLIES A MANDATORY NO MORE THAN
 THREE (NO) LESS THEN TWO EXPERTS THIS PETITIONER
 WAS SEEN BY (NONE) THE DEFENDANT MR WEBBER
 HAS LIVE IN LAKE COUNTY ALL HIS LIFE BEEN IN AND
 OUT OF LIFE STREAM HAS ALSO BEEN RECVY A DISABILITY
 CHECK ALL HIS LIFE HE HAS BEEN ON MED'S ALL HIS
 LIFE FOR SCHIZOAFFECTIVE DISORDER (AND) BIPOLAR

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(1) The court's rushed to justice by an Abuse of Judicial discretion AND held TRIAL over - The Allegations CHARGED, JURISPRUDENCE TEACHES THAT THE STATE, THE PLAINTIFF DO NOT PROCEED AGAINST A MENTALLY INCOMPETENT PERSON - (SEE CARRION-V-STATE 859 SO2D 563 (FLA 5TH DCA 2003). AND COCHRAN SUPRA (FLA 5TH DCA 2006) THE PETITIONER MR WEBBER AVERES THE TRIAL COURTS WHOLLY ABUSED ITS DISCRETION IN NOT HOLDING A COMPETENCY HEARING LIKE IT HAS THE LAST 5 TIMES FOR MR WEBBER THE STATE EVEN TOLD THE VICTIM THAT MR WEBBER IS (NOT) PLAYING WITH A FULL DECK SEE VICTIM DEPO'S MR WEBBER SHOULD HAVE SEEN A DOCTOR AND EXPERT EVALUATION AS REQUIRED. MR. WEBBER LIFE TIME HISTORY OF MENTAL PROBLEMS TREATMENT PSYCHOTROPIC MEDICATION AND COUNSELING A COMPETENCY HEARING WOULD BE WARRANTED. SEE BROCKMAN-V-STATE 852 SO2D 330 (FLA 2ND DCA 2003) FOWLER-V-STATE 255 SO2D 813 (FLA 1971) MARENA-V-STATE 6 SO3D 80 (FLA 5TH DCA 2004) AND SAWPELLIZ-V-STATE 88 S 390 (FLA 5TH DCA 2011)

INEFFECTIVE ASSISTANCE OF TRIAL AND APPELLATE COUNSEL

The petitioner is mentally challenged, unable to - FACILITATE AND NAVIGATE THE JUDICIAL OPTIONS, ISSUES, PRECEDENCE AVAILABLE ON APPEAL HENCE, THE APPOINTMENT OF AND TRIAL AND APPELLATE COUNSEL. THE COUNSEL IN ACCORDANCE WITH THE REQUIREMENTS OF AN ADEQUATE COMPETENT EFFECTIVE LEGAL REPRESENTATIVE FAILED THE PETITIONER MR WEBBER APPELLATE PROCEEDING(S) ON ISSUE(S) PRESENTED. THE FACT THAT THE TRIAL COURT TERMINATED, ABORTED AND FAILED TO PERMIT COMPLETION OF ANY AND ALL PSYCHOLOGICAL EXAMINATIONS. BY

At the time of the crime MR. WEBBER DEFENDANT WAS ON AND UNDER THE INFLUENCE OF STRONG HALLUCINATIONS WEBBER WAS CAUGHT WITH DRUGS PLUS... NOW WEBBER HAS BEEN TAKEN OFF DRUGS IN PRISON HIS MIND HAS CLEARED... THE FAILURE TO CONDUCT THE COMPETENCY HEARING BEFORE TRIAL RESULTED IN PREJUDICE TO THE ACCUSED DEFENDANT IT IS UNQUESTIONED THAT UNDER THE PREVAILING PROFESSIONAL NORMS... COUNSEL HAS AN OBLIGATION TO CONDUCT A THOROUGH INVESTIGATION OF THE DEFENDANT'S BACKGROUND POTER. 130 S. CT AT 452 (QUAY-WILLIAMS V. TAYLOR 529 US 362 399-396 - 120 S. CT 14950.. 146.. ED. 2d. 389 (2000) MOREOVER COUNSEL MUST NOT IGNORE PERTINENT AVENUES FOR INVESTIGATION OF WHICH HE OR SHE SHOULD HAVE BEEN AWARE... SEE POTER. 130 S. CT. AT 453. IT IS AXIOMATIC THAT COUNSEL HAS A DUTY TO MAKE REASONABLE INVESTIGATIONS OR MAKE REASONABLE DECISION THAT MAKES PARTICULAR INVESTIGATION UNNECESSARY HURST. 18 SO. 3D AT 1008 (QUAY STRICKLAND 466 US AT 691 MR WEBBER A CRUEL CRITICAL MISCALCULATION OF THE ISSUE TO BE CONSIDERED ON APPELLATE REVIEW AS ELEMENT OF - INVESTIGATIVE ASSISTANT OF COUNSEL THAT AND APPELLATE; WHERE IT WAS LIKELY THAT (IF) APPELLATE COUNSEL HAD RAISED THE ISSUE ON APPEAL THE DEFENDANT'S CONVICTIONS AND SENTENCES WOULD HAVE BEEN... COULD HAVE BEEN... SHOULD HAVE BEEN OVER TURNED OR REVERSED. SEE STRICKLAND V. WASHINGTON 466 US 688. 104 S. CT 2052 80 L. ED. 675 1984) THE PETITIONER'S DUE PROCESS RIGHTS TO A FAIR TRIAL HAS BEEN VIOLATED... INFRINGED (DENIED) AND BLATANTLY DISREGARDED... ALSO SEE VICTIM DEPOS WHERE THE STATE'S TELL THE VICTIM THAT MR. WEBBER IS NOT PLAYING WITH A FULL DECK SHE KNOWS THAT THE DEFENDANT WAS IN AND OUT OF PSY DOCTORS ALL HIS LIFE BUT TOOK HIM TO TRIAL WITHOUT SEEING ANY DOCTOR'S REPORTS IN THE RECORDS SEE VICTIM DEPOS. !!!

CONCLUSION AND RELIEF

Wherefore, The Defendant, REITERATED he is UNCONSTITUTIONALLY DETAINED AND HIS RIGHTS WERE VIOLATED. WHEREFORE THE DEFENDANT PRAYS THIS HONORABLE COURT GRANT THIS PETITION FOR EXTRAORDINARY RELIEF, REMEDY FORWARDS AND IMMEDIATE DISCHARGE FROM CUSTODY AND ANY OTHER FURTHER RELIEF THIS COURT DEEMS JUST EQUABLE AND FAIR.

DONE ON THIS DAY 20 of 2022

RESPECTFULLY SUBMITTED

Brian Walker 711902

DONE AND EXECUTED UNDER PENALTY OF PERJURY THIS DAY 20 of JAN 2022


Brian Walker 711902
COURT CLERK ANSWER

STATE of Florida
County of Lake...

OATH / AFFIDAVIT

Sworn to AND subscribed before me the undersigned personally appeared Bruce W. Webber who did produce identification and did take OATH AND say he is the petitioner in the petition for writ of Habeas Corpus. The FACTS STATEMENTS AND legal precedance Relied on herein are TRUE AND CORRECT

Done AND executed under penalty of perjury this DAY of 20 of JAN 2022

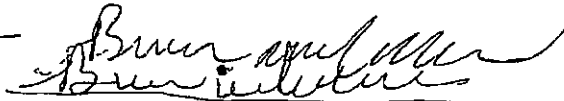

NOTARY public

1/19/25

my Commission Expires



Melinda Chisholm
Notary Public
State of Florida
Comm# HH082253
Expires 1/19/2025


Bruce Webber 711902

Certificate of Service

I hereby certify that a TRUE AND CORRECT copy of the foregoing motions for writ of Habeas Corpus has been furnished to Lake County Court Clerk in Lake County 550 W. DAVIS ST TAYLOR FL 32778.

Blaine W. Webber, 711902 R-1160
Columbia Correctional Institution
216 SE Correction Way
Lake City FL 32025 2013

UNMAILED FROM FL 320
COLUMBIA PM 41
CORRECTIONAL
INSTITUTION



For the Blind

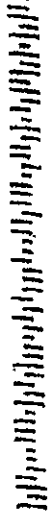
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Clerk of the Court
550 W. MAIN ST
TAYLOR FL 32778

CF



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