

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

2022 FEB -3 PM 2:49

STATE OF FLORIDA,

CASE NO: 35-1999-CF-002269-AXXX-XX

v.

SYLVESTER LEE THOMPSON,

ORDER DENYING PETITION FOR 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 Writ of Habeas Corpus ("Petition") filed on December 3, 2021 (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:

PROCEDURAL HISTORY

1. On March 16, 2000, Defendant was charged with Count I: Home Invasion Robbery.
2. The jury returned a guilty verdict on August 30, 2000.
3. The Defendant was sentenced to thirty (30) years in the custody of the Department of Corrections.

ANALYSIS

4. A conviction on a charge not made by the indictment or information is a denial of due process and an indictment or information that wholly omits to allege one or more of the essential elements of the crime cannot support a conviction for that crime. *Figueroa v. State*, 84 So.3d 1158, 1161 (Fla. 2d DCA 2012). This is a defect that can be raised at any time—before trial, after trial, on appeal, or by habeas corpus. *Id.*

5. Here, the Defendant filed the pending Petition alleging that the information lacked the ability to invoke the jurisdiction of the Court because it did not include the address of the property where the Home Invasion Robbery occurred.

6. The Information, a copy of which is attached as Exhibit A, lists Lake County and the State of Florida.

7. The information did not wholly fail to allege any element of the crime of home invasion robbery. Instead, the information tracked the language of the statute, clearly charged the essential elements of the crime, and sufficiently advised the Defendant of the specific crime with which he was charged.

8. The purpose of a charging instrument is to put the defendant on notice, not to allege all of the facts that will ultimately support the essential elements of the charge. Fla. Const. art 1, §16; Fla. R. Crim. P. 3.140(b). *Anderson v. State*, 291 So.3d 531 (Fla. 2020). The overriding concern is whether the defendant had sufficient notice of the crime for which he is being tried. *McMillan v. State*, 832 So.2d 946, 948 (Fla. 5th DCA 2002).

9. Here, the Defendant had sufficient notice when the State included the location where the home invasion robbery occurred. There is no requirement that the specific address be listed in the Information.

CONCLUSIONS

In view of the forgoing, the pertinent portions of the record, and applicable law, it is **ORDERED** as follows:

A. The Defendant's Petition for Writ of Habeas Corpus filed *pro se* on December 3, 2021 (mailbox rule) is **DENIED**.

B. The Defendant may appeal this Order within thirty (30) days of its rendition.

DONE and **ORDERED** in Chambers at Tavares, Lake County, Florida this 1st day of February 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 Sylvester L. Thompson, DC # 712778, 35 Apalachee Drive, Sneads, Florida 32460-4166, Office of the State Attorney, and the Clerk of Court this 3rd day of February 2022.

By:



DEPUTY CLERK

IN THE CIRCUIT COURT of Fifth Judicial Circuit of the State of Florida, in and for Lake County in the year of Our Lord, two thousand.

THE STATE OF FLORIDA

CASE NO. 99-2269-CF-A-03

VS

INFORMATION FOR:

SYLVESTER LEE THOMPSON

HOME INVASION ROBBERY (F1)

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA:

BRAD KING, State Attorney of the Fifth Judicial Circuit of the State of Florida, in and for Lake County prosecuting for the State of Florida, by and through the undersigned Assistant State Attorney, in the said County, under oath, information makes that: SYLVESTER LEE THOMPSON (R/S: B/M, DOB: 10/28/1966, SS#: [REDACTED]) in the County of Lake and State of Florida, on the 22nd day of October in the year of Our Lord, 1999:

did unlawfully enter a dwelling with the intent to commit the offense of robbery and did take from the person or custody of THOMAS MCKEITHAN, the occupant of the dwelling, certain property of value, to-wit: U S Currency, with the intent to temporarily or permanently deprive THOMAS MCKEITHAN of a right to the said property or a benefit thereof by force, violence, assault or putting the said THOMAS MCKEITHAN in fear, and in the course thereof there was carried, displayed, used, threatened, or attempted to use a weapon, to-wit: knife, in violation of Florida Statute 812.13(1), 812.135, and 775.087(1)(a);

contrary to the form of the statute in such cases made and provided and against the peace and dignity of the State of Florida.

STATE OF FLORIDA, COUNTY OF LAKE

Personally appeared before me, BRAD KING, State Attorney for the Fifth Judicial Circuit, State of Florida, in and for Lake County, State of Florida, or his duly designated Assistant State Attorney, who first being sworn, says that the allegations as set forth in the foregoing information are based upon facts that have been sworn to as true, and which if true, would constitute the offense therein charged. Prosecution instituted in good faith and subscribed under oath, certifying he has received testimony under oath from the material witness or witnesses of the offense.



STATE OF FLORIDA, COUNTY OF LAKE

I HEREBY CERTIFY that the above and foregoing is a true and accurate copy of the document filed in this office.
Gary J. Cooney, Clerk of the Circuit Court and Comptroller
By: [Signature] Deputy Clerk
This document may have been redacted as required by law.

[Signature]
ABETH B PURDY, Assistant to BRAD KING
Date: 9-22-00
Attorney, Fifth Judicial Circuit of Florida
Florida Bar No. 998885

Sworn to and subscribed before me this 16 day of March, 2000.

[Signature]
Notary Public



Joyce L. McCallister
MY COMMISSION # CC814796 EXPIRES
March 18, 2003
BONDED THRU TROY PAIN INSURANCE, INC.

Presented and filed in the CIRCUIT Court this 16 day of March, 2000.

JAMES C WATKINS
CLERK OF CIRCUIT COURT

BY: [Signature] D.C.



CH #7