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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

CASE NUMBER: 35-1999-CF-002269-AXXX-XX

STATE OF FLORIDA

vs.

SYLVESTER LEE THOMPSON,
Defendant.

**ORDER DISMISSING DEFENDANT'S "PETITION FOR WRIT OF HABEAS CORPUS
TO CORRECT A MANIFEST INJUSTICE, GIGLIO VIOLATION EXTRAORDINARY
REMEDY"**

THIS CAUSE came before this Court upon Defendant's "Petition for Writ of Habeas Corpus to Correct a Manifest Injustice, Giglio Violation Extraordinary Remedy" filed *pro se* on May 3, 2021 (mailbox rule) (the "Petition"). This Court, having reviewed the Petition and the record and being otherwise fully advised in the premises, finds and concludes as follows:

In the Petition Defendant argues he is entitled to relief based on two errors. First, Defendant argues that the State charged him with unlawful entrance during a home invasion, but the testimony at trial did not establish that the entrance was unlawful. Defendant also argues that the "prosecutor knowingly used perjured testimony." Defendant argues that he is entitled to immediate release from the Department of Corrections. Defendant's claims should have been raised on direct appeal or in his two prior Motions for Postconviction Relief; therefore, the Petition must be dismissed.

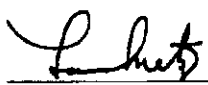
"The purpose of a habeas petition is not to challenge the judicial action that places a petitioner in jail; rather, it challenges the detention itself." *Jones v. Fla. Parole Com'n*, 48 So. 3d 704, 710 (Fla. 2010). "[A] petition for writ of habeas corpus 'shall not be entertained' when the issues raised 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, 1002-03 (Fla. 5th DCA 2006).

“Since 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.

It is therefore **ORDERED** and **ADJUDGED** that Defendant’s “*Petition for Writ of Habeas Corpus to Correct a Manifest Injustice, Giglio Violation Extraordinary Remedy*” filed *pro se* on May 3, 2021, (mailbox rule) is **DISMISSED**.

DONE and **ORDERED** in Chambers at Tavares, Lake County, Florida this 7th day of JUNE, 2021.




LARRY METZ, CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been served this 8 day of June, 2021, via US Mail/ Florida Courts E-Filing Portal/hand delivery to:

Defendant Sylvester Lee Thompson, # 712778, at Apalachee Correctional Institution East (Male)

Office of the State Attorney, Lake County



DEPUTY CLERK