

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

JOHN STEVENS,

2022 OCT 21 PM 3: 58

Petitioner

vs.

CASE NO: 2022 CA 1788

PEYTON GRINNELL,

Respondent.

ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS

THIS CAUSE came before the Court for review and consideration without a hearing upon Petitioner's Petition for Writ of Habeas Corpus filed on September 27, 2022. The Court having reviewed the petition, reviewed the pertinent documents in the Court file, and being otherwise fully advised in the premises, finds and concludes as follows:

1. Petitioner states that he is represented by counsel in the underlying criminal case.
2. As Petitioner correctly observes, the filings of defendants represented by counsel are typically nullities.
3. However, contrary to Petitioner's assertion,¹ a Petition for Writ of Habeas Corpus filed *pro se* by a represented criminal defendant who does not affirmatively request to discharge counsel is likewise a nullity. *Logan v. State*, 846 So. 2d 472, 475 (Fla. 2003).²

¹ Defendant quotes *Logan v. State*, 846 So. 2d 472 (Fla. 2003) as stating that "habeas corpus is appropriate when ineffective assistance of counsel has deprived a defendant of the possibility to defend himself." The purported quotation does not appear in *Logan*, nor in any other Florida case.

² There is an exception to the rule that *pro se* filings by represented defendants are nullities in a Motion to Withdraw Plea when the motion alleges an adverse relationship between a defendant and counsel. *Sheppard v. State*, 17 So.

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4. Petitioner does not affirmatively request discharge of counsel, but instead states that counsel “refuses to advocate for him, refuses to communicate with him, refuses to follow Petitioners’ wishes and has clearly abandoned him.”

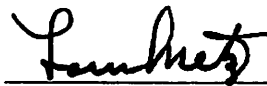
5. “Generalized complaints about court-appointed counsel’s trial strategy or lack of contact or communication with the defendant do not constitute the kind of unequivocal request to discharge counsel” that prevents a filing from being a nullity. *Logan v. State*, 846 So. 2d 472, 475 (Fla. 2003) (also stating that “A lack of communication, however, is not a ground for an incompetency claim.”)

6. In addition to the foregoing, on October 20, 2022, defendant entered into a plea agreement with the State of Florida in Lake County Circuit Court Case No.: 2021-CF-2581, which was accepted by the Court. After sentencing Defendant was released from custody under the terms of the plea agreement, effectively rendering the instant habeas corpus proceeding moot.

In view of the foregoing findings, the pertinent portions of the record, and applicable law, it is **ORDERED** and **ADJUDGED** that the Petition for Writ of Habeas Corpus is **DISMISSED WITHOUT PREJUDICE**.

DONE and **ORDERED** in Chambers at Tavares, Lake County, Florida this

21ST day of October 2022.



LARRY METZ, CIRCUIT JUDGE

3d 275, 287 (Fla. 2009). However, this exception has not been applied to pre-trial Habeas Petitions, nor has defendant alleged that trial counsel has misadvised him, made affirmative misrepresentations or coerced him as required by those cases.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been served by U.S. Mail/Inter-Office, Mail/Fax this 24th day of October 2022 to the following:

John Stevens
Inmate ID 142125
551 W Main Street
Tavares FL 32778

Office of the Attorney General
Department of Legal Affairs, 5th Fl.
444 Seabreeze Blvd.
Daytona Beach, FL 32118

By: D. Starnelle
Deputy Clerk