

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

CASE NO: 2022 CF 1514

STATE OF FLORIDA,

Respondent

vs.

CHRISTOPHER ENGLAND,

Defendant/Petitioner.

CLERK OF CIRCUIT
AND COUNTY COURT
LAKE COUNTY
TAVARES FLORIDA

2022 OCT 27 AM 11:00

ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS

THIS CAUSE came before the Court for review and consideration without a hearing upon the Petition for Writ of Habeas Corpus filed on September 12, 2022 (“Petition”), 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:

1. Petitioner does not allege he is incarcerated in Lake County, and based on the addresses listed on his most recent filing appears to be incarcerated in Polk County. “[A] petition for habeas corpus must be filed with the clerk of the court in the county where the defendant is detained.” *Perkins v. State*, 766 So. 2d 1173, 1175 (Fla. 5th DCA 2000). Thus, the Court lacks jurisdiction over the Petition.

2. Further, the Petition should have been filed as an independent civil action rather than in Petitioner’s criminal case file. *See Crane v. Hayes*, 253 So. 2d 435, 439 (Fla. 1971) (“As a general rule, a habeas corpus proceeding is an independent action, legal and civil in nature, designed to secure prompt determination as to the legality of restraint in some form.”).

3. “Moreover, the proper respondent in a habeas corpus petition is the party that has actual custody and is in a position to physically produce the petitioner.” *Alachua Reg'l Juvenile Det. Ctr. v. T.O.*, 684 So. 2d 814, 816 (Fla. 1996). Although Petitioner’s prayer for relief requests release by (presumably) the Polk County Detention Center, the Petition names the State of Florida as the sole other party.

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 26th day of October 2022.



LARRY METZ, CIRCUIT JUDGE

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 31 day of October 2022 to the following:

Christopher England
Booking # 2022-019399
2390 Bob Philips Rd
Bartow FL, FL 33830

Office of the State Attorney

By: 

Deputy Clerk