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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

STATE OF FLORIDA,

vs.

CASE NO: 2017-CF-0749

CHRISTOPHER ENGLAND,

Defendant.

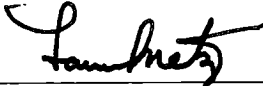
ORDER DENYING DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS

THIS CAUSE came before the Court upon the Defendant's Petition for Writ of Habeas Corpus filed on September 23, 2022 ("Defendant's Petition"). The Court, having reviewed the Defendant's Petition and other pertinent documents in the Court file, reviewed the relevant legal authorities, and being otherwise fully advised in the premises, finds and concludes as follows:

1. Defendant has been charged with sexual battery, aggravated assault with a deadly weapon, and burglary of a dwelling while armed.
2. Defendant argues that he cannot have committed burglary, because he was married to the alleged victim and therefore had the right to enter the property, citing statutes related to tenancies by the entirety.
3. Habeas corpus is not available when resolution of an issue in a petitioner's favor would not entitle them to immediate release. *Fleming v. State* 697 So. 2d 1322 (Fla. 5th DCA 1997).
4. Defendant would not be entitled to release even if the issue was resolved in his favor, because the other charges would remain pending.
5. Additionally, Defendant's Petition is legally insufficient, because one spouse does not necessarily have an ownership interest in or the right to enter property owned by the other. *See Cladd v. State*, 398 So. 2d 442 (Fla. 1981) (husband who was physically but not legally separated from wife could be guilty of burglary when entering premises possessed by wife in which he had no ownership or possessory interest); *State v. Suarez-Mesa*, 662 So. 2d 735 (Fla. 2d DCA 1995) (husband could be charged with burglary where he was restrained by court order from entering property).

In view of the foregoing findings, the pertinent portions of the record, and applicable law, it is **ORDERED** and **ADJUDGED** that Defendant's Petition for Writ of Habeas Corpus filed on September 23, 2022 is **DENIED**.

DONE and **ORDERED** in Chambers at Tavares, Lake County, Florida this 20th day of January 2023.



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 23 day of January 2023 to the following:

Office of the State Attorney

Christopher England
Inmate ID #55477
Lake County Detention Center
551 West Main Street
Tavares, FL 32778

By: 

Deputy Clerk