

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

JONATHAN FRANKLIN TOMS,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D12-0353

Opinion filed March 5, 2012.

Petition for Writ of Habeas Corpus -- Original Jurisdiction.

T. Martin Knopes of Cadenhead, Campbell & Knopes, Crestview, for Petitioner.

Pamela Jo Bondi, Attorney General, and Jennifer J. Moore, Assistant Attorney
General, Tallahassee, for Respondent.

PER CURIAM.

The petition for writ of habeas corpus is denied on the merits.

VAN NORTWICK and ROBERTS, JJ., CONCUR; THOMAS, J., Concur with written opinion.

THOMAS, J., Concur with written opinion.

I concur in the denial of the Petition for Writ of Habeas Corpus, but write to note that under Section 907.041 (4) (k), Fla. Stat., the legislature has stated that a defendant “*shall be entitled* to dissolution of the pretrial detention order whenever the *court* finds a subsequent event has eliminated the basis for detention.” (Emphasis added.) Here, the trial court declined to find that a subsequent event “eliminated the basis for detention.” Petitioner argues that his expert testimony regarding reasonable conditions of pre-trial release to protect the public should compel release. But under the statute, it is the trial court that must make this determination, and in light of the other evidence presented, I cannot hold as a matter of law that the trial court abused its discretion in its factual determinations. The trial court complied with the law and carefully considered the factors applicable here in detaining the Petitioner under the statutory scheme. See generally, State v. Blair, 39 So. 3d 1190 (Fla. 2010). Thus, I concur in the denial of the Petition for Writ of Habeas Corpus.