

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2007*

**LUIS ORLANDO VASQUEZ,**  
Petitioner,

v.

**JAMES R. McDONOUGH,** Secretary, **DEPARTMENT OF  
CORRECTIONS, STATE OF FLORIDA,**  
Respondent.

No. 4D07-3778

[December 12, 2007]

GROSS, J.

Petitioner filed a petition for writ of habeas corpus in the Supreme Court, which the Court treated as a petition for writ of mandamus and transferred to this court.

The petition raises the same issue petitioner previously filed in this court in case number 4D07-2465. We denied that petition without a written opinion.

Briefly, petitioner's claim is that his 2002 plea must be vacated because trial counsel failed to file a motion to suppress petitioner's statements to law enforcement. Petitioner did not raise this issue in a rule 3.850 motion filed in 2004. He attempted to amend that motion, but the trial court refused to allow the amendment because it was filed beyond the two year time limit. See Fla. R. Crim. P. 3.850(b). Petitioner then filed a petition for writ of habeas corpus claiming that the two year time limit of rule 3.850 was void because it unconstitutionally suspended the writ of habeas corpus. In the petition in this case, petitioner makes the same claim that was rejected in case number 4DO7-2465.

We also note that the underlying claim is without merit. Petitioner contends that the *Miranda* warnings in his case were the same as those involved in *Roberts v. State*, 874 So. 2d 1225 (Fla. 4th DCA 2004). However, this claim is false. The *Miranda* rights form used by the Coral Springs Police Department in this case contains warnings that this court found sufficient in *Canete v. State*, 921 So. 2d 687 (Fla. 4th DCA 2006).

Post-conviction relief cases comprise about 30 percent of the case load of this court. Sadly, this case is a paradigm for many such cases — frivolous arguments, based upon misrepresentations of fact, brought multiple times, in multiple courts.

Petition for writ of mandamus denied.

WARNER and HAZOURI, JJ., concur.

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Petition for writ of mandamus to the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Ana I. Gardiner; L.T. Case No. 01-18043CF10B.

Luis Orlando Vasquez, Sneads, pro se.

No brief filed for respondent.

***Not final until disposition of timely filed motion for rehearing***