

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, A.D. 2005

DAVID R. DOAK,

**

Appellant,

**

vs.

** CASE NO. 3D05-1467

THE STATE OF FLORIDA,

**

Appellee.

** LOWER
TRIBUNAL NO. 05-16685
**

Opinion filed September 21, 2005.

An Appeal from the Circuit Court for Miami-Dade County,
Jacqueline Hogan Scola, Judge.

David R. Doak, in proper person.

Charles J. Crist, Jr., Attorney General, and John D.
Barker, Assistant Attorney General, for appellee.

Before SHEPHERD, CORTIÑAS, and ROTHENBERG, JJ.

PER CURIAM.

Petitioner, David R. Doak, appeals the trial court's summary denial of a petition for a writ of habeas corpus. In his petition, Petitioner raised the following eight claims: (1) he was tried and convicted by a contaminated juror; (2) his right to discovery was violated; (3) his counsel failed to procure a DNA expert and familiarize himself with DNA evidence; (4) his counsel failed to investigate alternate theories of defense including insanity by intoxication; (5) the trial court erred in determining that statements made by a co-defendant fell within the excited utterance hearsay exception; (6) the trial court erred in allowing a taped statement to be introduced as a past recollection recorded; (7) the trial court erred in allowing irrelevant and prejudicial evidence; and (8) the trial court erred in allowing prejudicial and inadmissible evidence to taint his trial.

In response to Petitioner's appeal, the State contends that the trial court properly denied the petition for lack of jurisdiction since he was convicted in the Sixth Judicial Circuit in Pinellas County, Florida, requiring venue to lie therein. We affirm the trial court's order on that basis, without prejudice to refile the claims in the Sixth Judicial Circuit in Pinellas County, Florida.

We express no opinion on the merits of Petitioner's claims.

Affirmed.

