

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2010

PEDRO COLLAZO,

Petitioner,

v.

Case No. 5D10-2651

STATE OF FLORIDA,

Respondent.

_____ /

Opinion filed August 19, 2010

Petition for Writ of Prohibition,
Jenifer M. Davis, Respondent Judge.

Paula C. Coffman and Jeffrey D. Deen,
Regional Counsel, Orlando, for Petitioner.

Bill McCollum, Attorney General,
Tallahassee, and Megan Saillant,
Assistant Attorney General, Daytona
Beach, for Respondent.

PER CURIAM.

Petitioner seeks a Writ of Prohibition based upon the expiration of the statute of limitations on a second-degree felony charge. The trial court denied Petitioner's motion to dismiss after an evidentiary hearing. Although the crime occurred and a warrant issued in 2000, Petitioner was not arrested on the charge until 2008. Respondent acknowledges that the statute of limitations for the charged crime is three years but urges that the tolling provision of subsection 775.15(6), Florida Statutes (2001), applies. That particular subsection, however, is expressly limited to three years which would only

extend the statute to 2006. The Respondent having failed in its burden to show diligence in execution of the warrant before the statute expired, Petitioner is entitled to discharge.

Accordingly, we grant the Writ and order Petitioner's release on the second-degree felony charge.

Petition for Writ of Prohibition GRANTED.

TORPY, EVANDER and COHEN, JJ., concur.