

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2011

DONNECO R. KING,
Petitioner,

v.

EDWIN G. BUSS, SECRETARY, FLA. DEPT. OF CORRECTIONS,
Respondent.

No. 4D10-3278

No. 4D10-3387

[March 16, 2011]

PER CURIAM.

Donneco King has petitioned this court for a writ of certiorari seeking review of an order denying his petition for writ of habeas corpus in Case No. 4D10-3278. He has also appealed the same circuit court order in Case No. 4D10-3387. We sua sponte consolidate the cases, and treat the petition as the initial brief. We affirm.

Mr. King is serving a number of fifteen and ten-year sentences for various felony convictions arising out of Pinellas County. He filed an emergency petition for writ of habeas corpus in the Fifteenth Judicial Circuit because he is currently incarcerated in South Bay Correctional Institute. In that petition, he challenged a post-conviction order entered in the Sixth Judicial Circuit on March 20, 2002.

King now argues that his conviction and sentences in case numbers 97-7686 and 96-21331 are void. He suggests that he should be released because the sentences in those cases should have run concurrent with his new plea and resentencing on other cases that occurred in 2003. After a long and protracted history, suffice it to say, King failed to include these two cases in his appeal to the Second District, which led to the new plea and resentencing in the other case numbers. *See King v. State*, 870 So. 2d 69 (Fla. 2d DCA 2003). The fact that King failed to timely challenge in the Second District appeal the post-conviction order as it related to case numbers 97-7686 and 96-21331 prevents him from now collaterally attacking the convictions and sentences in these cases. Even if the March 20, 2002 order should also have been vacated as to case

numbers 97-7686 and 96-21331, King would be in a pretrial posture in these cases and would not be entitled to immediate release.

Affirmed.

WARNER, MAY and DAMOORGIAN, JJ., concur.

* * *

Consolidated Petitions for writ of certiorari and writ of habeas corpus to the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; David French, Judge; L.T. Case No. 50210CA013717.

Donneco R. King, South Bay, pro se.

No appearance for respondent.

Not final until disposition of timely filed motion for rehearing.