

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

NARCISSO PARKER,
Appellant,

v.

STATE OF FLORIDA DEPARTMENT OF CORRECTIONS,
Appellee.

No. 4D11-601

[March 16, 2011]

PER CURIAM.

This petition for writ of habeas corpus seeks review of the circuit court's denial of a mandamus complaint that sought return of property seized as part of a criminal investigation in 1990. We redesignate this as an appeal from the circuit court's final order and treat the petition for writ of habeas corpus as the initial brief. Petitioner has filed an appendix which contains all documents required to review the issue presented and which we treat as the record on appeal. We summarily affirm. Fla. R. App. P. 9.315(a).

The circuit court properly denied the relief requested in a thorough and well-reasoned order. The materials were destroyed and are no longer in the possession of government officials, so mandamus does not lie. Further, the statute of limitations for bringing an action for return of property expired long ago in 1998, four years after the prosecution in which the property was seized concluded. § 95.11(3)(i), Fla. Stat. (1989); *Poux v. State*, 985 So. 2d 1191 (Fla. 4th DCA 2008). Petitioner unduly delayed in seeking return of the property at issue.

Affirmed.

POLEN, TAYLOR and GERBER, JJ., concur.

* * *

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, Martin County; Gary L. Sweet, Judge; L.T. Case No. 09-1956 CA.

Narcisso Parker, Indiantown, Pro Se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing.