

Third District Court of Appeal

State of Florida

Opinion filed September 17, 2014.
Not final until disposition of timely filed motion for rehearing.

No. 3D14-2199
Lower Tribunal Nos. 13-23988, 13-25979

Manuel Herrera,
Petitioner,

vs.

State of Florida, et al.,
Respondents.

A case of original jurisdiction – Habeas Corpus.

Carlos J. Martinez, Public Defender, and Marti Rothenberg, Assistant Public Defender, for petitioner.

Pamela Jo Bondi, Attorney General, and Robert Martinez Biswas, Assistant Attorney General, for respondents.

Before WELLS, SUAREZ, and SALTER, JJ.

SUAREZ, J.

Manuel Herrera seeks a writ of habeas corpus to remedy his detention without bond. At the defendant's appearance at the alias capias calendar, the trial court failed to determine whether Herrera's failure to appear in court for pre-trial

sounding was willful, and failed to make the necessary findings that “no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial.” Art. I, § 14, Fla. Const.; § 907.041(4)(c), Florida Statutes (2014). See Blair v. State, 59 So. 3d 387 (Fla. 2011). As such, we grant Herrera’s petition for writ of habeas corpus only insofar as we remand to the trial court for an expedited bond hearing pursuant to section 907.041(4)(c), Florida Statutes (2014). The trial court’s determination shall include, but is not limited to, Herrera’s willfulness in failing to appear at his scheduled pre-trial sounding. Herrera shall remain in detention pending the outcome of the hearing.

Petition granted; remanded for an expedited bond hearing.

This opinion shall take effect immediately notwithstanding the filing or disposition of any motion for rehearing.