

Third District Court of Appeal

State of Florida

Opinion filed July 3, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D18-2584
Lower Tribunal No. 84-29146

Angel Barreiros,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Lourdes Simon,
Judge.

Angel Barreiros, in proper person.

Ashley Moody, Attorney General, for appellee.

Before HENDON, MILLER, and LOBREE, JJ.

HENDON, J.

Angel Barreiros (“defendant”) appeals from the denial of his petition for writ

of habeas corpus and the denial of his motion for rehearing. For the reasons that follow, we reverse and remand for the trial court to address the issues raised in the defendant's petition for writ of habeas corpus.

On October 30, 2017, the defendant mailed a petition for writ of habeas corpus raising three arguments, which petition was docketed on November 2, 2017. On December 7, 2017, the trial court entered an order denying the petition, stating as follows: "Defendant's petition for habeas corpus was previously filed in this court as a motion to correct illegal sentences, filed 4/17/17 and denied." The order denying the petition for writ of habeas corpus was furnished to the defendant by mail on December 18, 2017. On January 2, 2018, the defendant submitted for mailing a motion for rehearing of the order denying his petition for writ of habeas corpus, arguing that, contrary to the trial court's determination, the issues raised in the October 30, 2017 petition for writ of habeas corpus were not previously raised in a motion to correct illegal sentence filed on April 17, 2017. The trial court denied the motion for rehearing, and the defendant's appeal followed.

The Miami-Dade County lower tribunal docket does not reflect that a motion to correct illegal sentence was filed on April 17, 2017. However, the Miami-Dade County docket reflects that the defendant filed a 3.800(a) motion to correct illegal sentence in Miami-Dade County on April 18, 2017, which was dated April 10, 2017. In addition, on April 17, 2017, the defendant filed a petition for writ of habeas corpus

in Charlotte County, which was later transferred to Miami-Dade County on April 24, 2017. Both the petition for writ of habeas corpus originally filed in Charlotte County and the motion to correct illegal sentence filed in Miami-Dade County on April 18, 2017, raised the same three issues.

As pertinent to the instant appeal, the three issues raised in either the April 17, 2017 petition for writ of habeas corpus originally filed in Charlotte County or the motion to correct illegal sentence filed in Miami-Dade County on April 18, 2017, are not the same three issues raised in the defendant's petition for writ of habeas corpus dated October 30, 2017 (docketed November 2, 2017). Thus, the defendant correctly argues that the trial court erred by finding that the issues raised in his October 30, 2017 petition for writ of habeas corpus are the same issues raised in an April 17, 2017 motion to correct illegal sentence. Accordingly, we reverse the orders under review and remand for the trial court to address the issues raised in the defendant's petition for writ of habeas corpus dated October 30, 2017 (docketed November 2, 2017). We take no position as to the arguments raised by the defendant in his October 30, 2017 petition for writ of habeas corpus.

Reversed and remanded.