

Third District Court of Appeal

State of Florida

Opinion filed October 21, 2020.
Not final until disposition of timely filed motion for rehearing.

No. 3D20-0147
Lower Tribunal No. 03-24863

Derrick Jenkins,
Petitioner,

vs.

Mark Inch, etc.,
Respondent.

A Case of Original Jurisdiction – Habeas Corpus.

Derrick Jenkins, in proper person.

Ashley Moody, Attorney General, for respondent.

Before EMAS, C.J., and SCALES and LOBREE, JJ.

PER CURIAM.

Derrick Jenkins petitions for habeas corpus relief from his conviction for robbery with a firearm and his sentence as a violent career criminal. He charges

error to the firearm element of his conviction on the basis of Hines v. State, 983 So. 2d 271 (Fla. 1st DCA 2008), as well as to his sentence as a violent career criminal due to the state's purported failure to comply with section 775.084(5), Florida Statutes (2003). We find the petition to be wholly without merit and deny it. Upon consideration of Jenkins' litigation history in this court, we deem further action is warranted.

This is the latest of thirteen unsuccessful pro se appellate or original proceedings initiated by Jenkins pertaining to the underlying case since his direct appeal in 2006.¹ Jenkins has continued to raise and litigate meritless claims in successive appeals and petitions, even after we have affirmed the trial court's orders or denied relief sought by him in original proceedings. On December 2, 2015, the trial court entered an order directing its clerk not to accept any further filings in Jenkins' case unless signed by a member in good standing of the Florida Bar.

¹ Jenkins v. State, 959 So. 2d 737 (Fla. 3d DCA 2007) (per curiam affirmed); Jenkins v. State, 985 So. 2d 544 (Fla. 3d DCA 2008) (denying habeas); Jenkins v. State, 17 So. 3d 1235 (Fla. 3d DCA 2009) (denying prohibition); Jenkins v. State, 28 So. 3d 55 (Fla. 3d DCA 2010) (per curiam affirmed); Jenkins v. State, 54 So. 3d 499 (Fla. 3d DCA 2010) (per curiam affirmed); Jenkins v. State, 50 So. 3d 1146 (Fla. 3d DCA 2010) (per curiam affirmed); Jenkins v. State, 77 So. 3d 1269 (Fla. 3d DCA 2011) (per curiam affirmed); Jenkins v. State, 129 So. 3d 1077 (Fla. 3d DCA 2013) (per curiam affirmed); Jenkins v. State, 149 So. 3d 20 (Fla. 3d DCA 2014) (voluntarily dismissed); Jenkins v. State, 166 So. 3d 790 (Fla. 3d DCA 2015) (per curiam affirmed); Jenkins v. State, 194 So. 3d 1033 (Fla. 3d DCA 2016) (per curiam affirmed); Jenkins v. State, 278 So. 3d 659 (Fla. 3d DCA 2019) (denying habeas).

However, since the entry of that order and our subsequent affirmance of it in Jenkins v. State, 194 So. 3d 1033 (Fla. 3d DCA 2016), Jenkins has continued to seek relief from this court, notwithstanding prior adverse determinations. As such, his “actions have caused this court to expend precious and finite judicial resources which could otherwise be devoted to cases raising legitimate claims.” Jackson v. State, 44 Fla. L. Weekly D2899, D2900 (Fla. 3d DCA Dec. 4, 2019). The right to proceed pro se may be forfeited where, after proper notice and an opportunity to be heard, it is determined that such party has abused the judicial process by the continued filing of meritless or successive collateral claims. See State v. Spencer, 751 So. 2d 47 (Fla. 1999).

The petitioner, Derrick Jenkins, is hereby directed to show cause, within forty-five days from the date of this opinion, why he should not be prohibited from filing any further pro se appeals, pleadings, motions, or petitions relating to his convictions, judgments, and sentences in circuit court number F03-24863. Absent a showing a good cause, we intend to direct the Clerk of the Third District Court of Appeal to refuse to accept any such paper relating to this circuit court case number unless it has been reviewed and signed by a licensed attorney in good standing with the Florida Bar. Additionally, as we observed in Jackson, we remind Jenkins that, absent a showing of good cause, any further and unauthorize filings “will subject

him to appropriate sanctions . . . including the forfeiture of gain time.” Jackson, 44 Fla. L. Weekly at D2900.

Denied. Order to show cause issued.