

Third District Court of Appeal

State of Florida

Opinion filed October 7, 2020.
Not final until disposition of timely filed motion for rehearing.

No. 3D20-1336
Lower Tribunal No. 04-29879

Luis La-Casse,
Petitioner,

vs.

Mark S. Inch, etc.,
Respondent.

A Case of Original Jurisdiction – Habeas Corpus.

Luis La-Casse, in proper person.

Ashley Moody, Attorney General, for respondent.

Before EMAS, C.J., and LOGUE and MILLER, JJ.

PER CURIAM.

On at least five occasions following his 2007 conviction and sentence, Luis La-Casse has filed pro se pleadings in the trial court seeking postconviction relief

from his conviction and sentence in lower court case number F04-29879. In 2018, the trial court found that La-Casse's filings were frivolous and that La-Casse's conduct constituted an abuse of the judicial process. The trial court entered an order prohibiting La-Casse from filing any pro se pleadings with the circuit court relating to F04-29879, unless "accompanied by a certificate of merit signed by a member in good standing of the Florida Bar." The trial court also warned La-Casse that a violation of the bar order would subject him to sanctions. We affirmed the trial court's order. See La-Casse v. State, 271 So. 3d 67 (Fla. 3d DCA 2019).

In an apparent attempt to evade the trial court's bar order, La-Casse filed the present pro se petition as an original proceeding in this court. Though styled as a petition for writ of habeas corpus, La-Casse's pleading is plainly a motion seeking postconviction relief pursuant to Florida Rule of Criminal Procedure 3.850, and is premised on factual allegations which must be determined in the first instance by the trial court. In order to comply with the trial court's bar order, La-Casse cannot file such a motion with the trial court unless it is accompanied by a certificate of merit signed by a member in good standing of the Florida Bar.

A petition for writ of habeas corpus may not be used to challenge the legality of a defendant's judgment of conviction. A defendant must seek such relief, if at all, through the procedure established in rule 3.850. Nor may habeas corpus be used as a substitute for an otherwise procedurally barred motion for postconviction relief

under rule 3.850. See Baker v. State, 878 So. 2d 1236 (Fla. 2004). See also Corner v. State, 218 So. 3d 922, 923 (Fla. 3d DCA 2016) (issuing an order directing defendant to show cause why he should not be barred from filing further pro se pleadings, noting that defendant was “attempting to use the habeas corpus petition as a disguised rule 3.850 motion”).

La-Casse is cautioned that should this court determine that his actions constitute an abuse of the postconviction process, he will be subject to sanctions, including an order barring him from proceeding pro se in this court. The court may also issue written findings and forward those findings to the Florida Department of Corrections for its consideration of disciplinary action, including the forfeiture of gain time. See § 944.279(1), Fla. Stat. (2020).

Dismissed without prejudice.