

Third District Court of Appeal

State of Florida

Opinion filed December 2, 2020.
Not final until disposition of timely filed motion for rehearing.

No. 3D20-1540
Lower Tribunal No. 07-55389

Eugene C. Britt,
Petitioner,

vs.

Mark S. Inch, et al.,
Respondents.

A Case of Original Jurisdiction – Habeas Corpus.

Eugene C. Britt, in proper person.

Ashley Moody, Attorney General, and Michael W. Mervine, Assistant Attorney General, for respondent The State of Florida.

Before FERNANDEZ, LOGUE, and LOBREE, JJ.

LOGUE, J.

Eugene C. Britt petitions for a writ of habeas corpus for his immediate release based upon a claim that his conviction and sentence are illegal. Although Mr. Britt

is currently in custody at the Everglades Correctional Institution, in Miami-Dade County, he was sentenced by the Circuit Court of the Eighteenth Judicial Circuit in Brevard County. See State v. Britt, No. 2007-CF-055389 (Fla. 18th Cir. Ct. June 25, 2009).

“The circuit court of the county in which a defendant is incarcerated has jurisdiction to consider a petition for writ of habeas corpus when the claims raised in the petition concern issues regarding incarceration, but not when the claims attack the validity of the judgment or sentence.” Broom v. State, 907 So. 2d 1261, 1262 (Fla. 3d DCA 2005) (citing cases). “Only the court in which the defendant was convicted and sentenced has jurisdiction to consider collateral attacks on a judgment or sentence, and such an attack must be brought pursuant to Rule 3.800 or 3.850, not by petition for writ of habeas corpus.” Id. See also Peoples v. State, 260 So. 3d 365, 367 (Fla. 3d DCA 2018).

Accordingly, we direct the Clerk to transfer this petition to the Circuit Court of the Eighteenth Judicial Circuit in Brevard County, Florida.