

Third District Court of Appeal

State of Florida, July Term, A.D. 2007

Opinion filed October 17, 2007.

Not final until disposition of timely filed motion for rehearing.

No. 3D07-1306

Lower Tribunal No. 07-10504

Edward Cooper,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Mark King Leban, Judge.

Edward Cooper, in proper person.

Bill McCollum, Attorney General, and Rolando A. Soler, Assistant Attorney General, for appellee.

Before GREEN, SUAREZ, and SALTER, JJ.

PER CURIAM.

Edward Cooper appeals the denial of his petition for a writ of habeas corpus by the Eleventh Judicial Circuit Court in Miami-Dade County. We affirm the denial, but without prejudice to Cooper's right to re-file in the proper venue and in the proper form.

Cooper was convicted in the Seventeenth Judicial Circuit Court in Broward County. His 2002 conviction was summarily affirmed by the Fourth District Court of Appeal. Cooper v. State, 847 So. 2d 482 (Fla. 4th DCA 2003).

Although the circuit court denied Cooper's petition on the merits, the correct ruling would have been a dismissal of the petition without prejudice to Cooper's right to re-file it in the circuit court in Broward County where the conviction occurred. Johnson v. State, 947 So. 2d 1192, 1193 (Fla. 3d DCA 2007). A petition for a writ of habeas corpus addressed to the conditions of incarceration may be filed in the circuit in which a petitioning prisoner is incarcerated, but not a petition addressed to the details of a conviction and sentencing that occurred in another circuit. Id.

Cooper's claims are also subject to Florida Rule of Criminal Procedure 3.850, such that they are governed by the applicable two-year statutory limitation.

Affirmed.