

Third District Court of Appeal

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

Opinion filed November 21, 2007.
Not final until disposition of timely filed motion for rehearing.

No. 3D07-1459
Lower Tribunal No. 06-11758

Thomas J. Gilbert,
Petitioner,

vs.

The State of Florida,
Respondent.

Case of original jurisdiction—Mandamus.

Thomas Gilbert, in proper person.

Bill McCollum, Attorney General and Richard L. Polin, Bureau Chief, for respondent.

Before GERSTEN, C.J., and SHEPHERD and SUAREZ, JJ.

On Motion for Rehearing

SUAREZ, J.

We grant the State's motion for rehearing, withdraw this Court's prior opinion released on August 15, 2007, and deny Defendant's Petition for Writ of Mandamus.

Defendant filed a petition for writ of mandamus to require the judge of the Eleventh Judicial Circuit, the circuit in which defendant is presently incarcerated, to rule on his pro se petition for writ of habeas corpus collaterally attacking his judgment and sentence. The judgment and sentence occurred in Monroe County and not in Miami-Dade County. Therefore, the trial court was correct in transferring the defendant's petition for writ of habeas corpus to the Sixteenth Judicial Circuit, Monroe County. See Broom v. State, 907 So. 2d 1261 (Fla. 3d DCA 2005).

Petition is denied.