

Third District Court of Appeal

State of Florida, July Term, A.D. 2009

Opinion filed December 30, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D09-429
Lower Tribunal No. 08-43391

Charles Young,
Appellant,

vs.

Walter A. McNeil, Secretary
Florida Department of Corrections,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Dennis J. Murphy, Judge.

Charles Young, in proper person.

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

Before COPE, WELLS, and CORTIÑAS, JJ.

PER CURIAM.

This is an appeal of an order denying a petition for writ of habeas corpus. In his petition, Charles Young challenged the sufficiency of the evidence to support his conviction for capital sexual battery. The trial court denied the petition, and the defendant has appealed.

In the answer brief, the State argues that we should affirm because the petition was filed in the incorrect court. Although the petitioner is incarcerated in Miami-Dade County, the conviction was imposed by the Circuit Court of the Fifth Judicial Circuit in and for Marion County, Florida. “[A] circuit court has no jurisdiction to review the legality of a conviction in another circuit” Calloway v. State, 699 So. 2d 849, 850 (Fla. 3d DCA 1997) (quoting State v. Broom, 523 So. 2d 639, 641 (Fla. 2d DCA 1988)); see also Johnson v. State, 947 So. 2d 1192, 1192-93 (Fla. 3d DCA 2007). We therefore affirm on the basis that the petition was filed in the wrong court. This ruling is without prejudice to the petitioner to refile in the Fifth Judicial Circuit. We express no opinion on the merits of the petitioner’s claim, nor any opinion on whether habeas corpus is an appropriate remedy under the circumstances of this case.

Affirmed.