

IN THE SUPREME COURT OF FLORIDA

WILLIAM A. MOODY,

Petitioner,

v.

CASE NO. SC05-1386  
5TH DCA CASE NO. 5D05-687

STATE OF FLORIDA,

Respondent.

\_\_\_\_\_ /

ON NOTICE TO INVOKE DISCRETIONARY REVIEW  
OF A DECISION OF THE FIFTH DISTRICT COURT OF APPEAL

RESPONDENT'S BRIEF ON JURISDICTION

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STATEMENT OF THE CASE AND FACTS

Petitioner's convictions and sentences for aggravated stalking, arson, burglary, grand theft and trespass were affirmed by the Fifth District Court of Appeal on June 19, 1998 in Moody v. State, 713 So. 2d 1050 (Fla. 5<sup>th</sup> DCA 1998). In that opinion, the Court described Petitioner's efforts to thwart or impede the judicial process through his misconduct during the trial court proceedings. Mandate issued on July 8, 1998.

On August 21, 2000, Petitioner's habeas corpus petition alleging ineffectiveness of appellate counsel in that direct appeal from his convictions and sentences was denied in Fifth District Court of Appeal Case No. 5D00-1930.

On July 11, 2000, Petitioner filed his Rule 3.850 Motion for PostConviction Relief in the trial court. After conducting an evidentiary hearing on grounds three, six and twelve involving the knowing nature of Petitioner's decision to exercise his right to a trial, the trial court judge issued his order denying postconviction relief. That order was affirmed *per curiam* in Moody v. State, 833 So.2d 153 (Fla. 5<sup>th</sup> DCA 2002).

On September 29, 2004, Petitioner signed his Petition to Invoke All Writs Jurisdiction which he had filed in the Fifth District Court of Appeal Case No. 5D04-3383. In that Petition, he basically reargued the points from his earlier appeals. That Petition was summarily denied by order dated December 2, 2004. By order dated March 3, 2005, Petitioner was directed not to file any further pleadings in that case.

On February 24, 2005, Petitioner signed another Petition to Invoke All Writs Jurisdiction in Fifth District Court of Appeal Case No. 5D05-687. In that Petition, he again reargued his earlier appeals. On May 4, 2005, in this Court's Case No. SC05-760, Petitioner filed a Petition for Writ of Prohibition relating to his pending 5<sup>th</sup> DCA "All Writs" Petition. It was summarily dismissed for lack of jurisdiction in Moody v. State, 903 So.2d 190 (Fla. 2005). Then, by order dated August 9, 2005, the Fifth District Court of Appeal denied the Petition and denied Petitioner's motions to disqualify the judges and the court and directed that he be barred from any further filings. (Appendix I - 5<sup>th</sup> DCA Order).

On June 13, 2005, Petitioner filed a Petition for Writ of Quo Warranto in this Court's Case No. SC05-1198 which was dismissed by order dated April 11, 2006.

Petitioner filed his Notice to Invoke Discretionary Review from 5D05-687 on August 5, 2005 in SC05-1386. By order dated March 9, 2006, this Court moved Petitioner's filings in its Case No. SC05-1706 to the above-styled case, SC05-1386. Petitioner filed his Jurisdictional Brief on March 9, 2006. His Certificate of Service bears a date of April 6, 2006.

SUMMARY OF ARGUMENT

Petitioner has not cited any Florida cases which are in express and direct conflict with the opinion of the Fifth District Court of Appeal in the instant case nor has he raised any other basis upon which this Court could exercise its discretionary jurisdiction under Article V, Section 3(b) of the Florida Constitution or Florida Rule of Appellate Procedure 9.030(a)(2)(A).





ARGUMENT - RESTATED

THE OPINION OF THE FIFTH DISTRICT COURT OF APPEAL  
IN THE CASE SUBJUDICE DENYING PETITIONER'S PETITION  
TO INVOKE ALL WRITS JURISDICTION IS NOT IN EXPRESS  
AND DIRECT CONFLICT WITH ANY OTHER CASES.

Under Article V, Section 3 (b) of the Florida Constitution and Florida Rule of Appellate Procedure 9.030(a)(2)(A)(iv), this Court may review any decision of a district court of appeal that expressly and directly conflicts with a decision of another district court of appeal or of the Supreme Court on the same question of law. In Reaves v. State, 485 So. 2d 829 (Fla. 1986), this Court said that the conflict between decisions must be express and direct, i.e., it must appear within the four corners of the majority decision.

As discussed previously, Petitioner's judgments and sentences were affirmed on direct appeal almost eight years ago. His habeas corpus petition was denied by the Fifth District Court of Appeal almost six years ago and the denial of his motion for postconviction relief was affirmed by that Court in 2002. By "All Writs" Petitions filed in the District Court in 2004 and 2005, Petitioner has attempted to revive the same issues raised in his earlier motions, petitions and appeals. The August 9, 2005 order from which

Petitioner is seeking review simply states that his Petition is "denied".

This Court has long held that the "all writs" provision of Article V, Section 3(b)(7) cannot be used to relitigate issues that were or could have been raised on direct appeal or in prior postconviction proceedings. Johnson v. State, 918 So.2d 292 (Fla. 2005), citing Denson v. State, 775 So.2d 288, 289 (Fla. 2000). That is precisely what Petitioner has attempted to do here. His direct appeal from his convictions and sentences and his appeal from the denial of postconviction relief were both unsuccessful and so he filed his "all writs" petition in hopes of relitigating the same points rejected in his earlier appeals. In Stallworth V. Moore, 827 So.2d 974 (Fla. 2002, this Court again explained that the 1980 amendment to Article V, Section 3 of the Florida Constitution restricted the scope of its discretionary review and that "all writs" provision of 3(b)(7) does not confer added appellate jurisdiction and cannot be used as an independent basis for review. The Fifth District Court of Appeal summarily denied the Petition and Petitioner has failed to demonstrate any valid basis upon which this Court could exercise its discretionary jurisdiction.

CONCLUSION

Since Petitioner has failed to establish express and direct conflict or any other bases upon which this Court could exercise its discretionary jurisdiction in this case, Respondent respectfully prays this Honorable Court decline to do so.

Respectfully submitted,

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COUNSEL FOR RESPONDENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Respondent's Brief on Jurisdiction has been mailed to William A. Moody, DC # 076154, Washington Correctional Institution, 4455 Sam Mitchell Drive, F3105L, Chipley, Florida 32428, this \_\_\_\_ day of April, 2006.

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the size and style of type used in this brief is 12-point Courier New, in compliance with Fla. R. App. P. 9.210(a)(2).

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Anthony J. Golden  
Assistant Attorney General