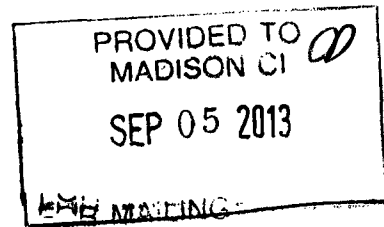


IN THE SUPREME COURT OF FLORIDA

2013 SEP -6 PM 2:13

Gregory Ruff, ALTERNATE SUPREME COURT 13-1245
pet, BY _____ CASE NO: 4D12-2517
V. L.T.: 03-18626 CF10A

State of Florida



NOTICE TO INVOKE DISCRETIONARY
JURISDICTION OF THE SUPREME COURT

NOTICE IS GIVEN, that petitioner Gregory Ruff do Pray to INVOKE the Discretionary Jurisdiction of the SUPREME COURT OF FLORIDA pursuant to the Doctrine Principles of Res Judicata and Law of the Case, that have clearly been invoked where a Manifest Injustice is prevalent on the face of the record. See de Lancino v. E. Airlines, inc 283 So. 2d 97-98 (Fla. 1973); Strazzula v. Hendrick, 177 So. 2d 1. 4 (Fla. 1965).

JURISDICTIONAL ARGUMENT

ISSUE

LAW OF THE CASE DOCTRINE AND RES-
JUDICATA WILL NOT BE INVOKED TO
BAR RELIEF WHERE ITS APPLICATION
WOULD RESULT IN A MANIFEST INJUSTICE

THE LAW OF THE CASE DOCTRINE

This court has long held that the law of the case doctrine requires that the "questions of law actually decided on appeal must govern the case in the same court and trial court thru all subsequent stages of the proceedings." See *Florida Dept of Transp. v. Juliano*, 801 So.2d 101, 105 (Fla. 2001) (Law of the case doctrine principles do not apply unless the issues are decided on appeal. *id.* See also *Kelly v. State*, 739 So.2d 1164 (Fla. 5th DCA 1999).

RESJUDICATA AND COLLATERAL ESTOPPEL PRINCIPLES

This court has also explained that doctrine as follows:

A judgement on the merits rendered in a former suit between the same parties or their privies, upon the same cause of action, by a court of competent jurisdiction is conclusive not only to every matter which was offered and received to sustain or defeat the claim, but as to every matter which might with propriety have been litigated and determined in that action. . .

Juliano, 801 So.2d at 105 quoting *Kimbrell v. Paige* 448 So.2d 1009, 1012 (Fla. 1984). Thus under *Res Judicata*, a judgement on the merits bars a subsequent action between the same parties on the same cause of action.

MANIFEST INJUSTICE

This court again has long recognized that *Res Judicata* will not be invoked where it would defeat the ends of justice. *See de Lancio v. E. Airlines, Inc.*, 283 So.2d 97-98 (Fla. 1973) *Universal Const Co. v. City of Ford Lauderdale*, 68 So.2d 366-369 (Fla. 1953). *See Strazzulla v. Hendrick*, 177 So.2d 1, 4 (Fla. 1965)

FACTS OF CASE

In the instant case the lower tribunal has applied the doctrine of Res judicata in their procedural denial in petitioners Post Conviction filings.

There upon appellate review the district court did adopt the lower tribunals ruling as the Law of the case. Both courts failing to reach the merits of petitioners Manifest Injustice claim.

Because it would appear that the remedy he seeks by 3.850 post conviction motion is inadequate or ineffective to test the legality of his detention, Mr. Ruff humbly seeks his right to habeas Corpus consideration to challenge his continued detention of 30 years. Based entirely on his September 2006 convictions for trafficking / possession of oxycodone and cocaine.

WRITTEN OPINION FOR WHICH
JURISDICTION IS BEING INVOKED

Contrary to the District Courts
written opinion petitioner Ruff

asserts if given the opportunity. He can show that knowledge of the illicit nature of the substance, as a matter of Law, was disputed and does rise to trial court error, thus reaching to the Manifest Injustice Doctrine claim.

The District courts ruling was premature in that it did not have before it adequate record nor requested briefing to make a fair determination if Luff's issue was structural in nature.

Relief Sought

Pray this Court afford him the opportunity to prove his claim of Manifest Injustice

Greg Luff

See attached Appendix

Gregory Luff
#642947
Madison Corr Inc
382 SW. MC Way
Madison FL 32340

CERTIFICATE OF SERVICE

I HEREBY certify, that a true
and correct copy of the foregoing
Juris dictional Brief was furnished
to Supreme Court of Florida, 500 S. Duvall
St. Tallahassee, Fla., 32399-1927
by U.S. Mail this 5 day of July

Gregory Ruff

Gregory Ruff
642 947
Madison Corr Inst
382 SW. Melway
Madison FL 32340

IN THE SUPREME COURT OF FLORIDA

GREGORY RUFF

CASE NO.: SC13-1245

V.

STATE OF FLORIDA,

APPENDIX

Exhibit

1. District Court of Appeal order dated May 22, 2013.
2. Supreme Court of Florida order dated August 28, 2013

4

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM
BEACH, FL 33401**

May 22, 2013

CASE NO.: 4D13-1589

L.T. No.: 03-18626 CF10A

GREGORY RUFF

v. STATE OF FLORIDA

Appellant / Petitioner(s)

Appellee / Respondent(s)

BY ORDER OF THE COURT:

ORDERED that this petition for writ of habeas corpus is dismissed. *Baker v. State*, 878 So.2d 1236, 1241 (Fla. 2004). Petitioner attempts to raise a procedurally barred claim of trial court error. A postconviction motion would be untimely and successive in this case. Petitioner's allegation of "manifest injustice" is frivolous as he committed his offenses after section 893.101, Florida Statutes, became effective, and he has not shown that knowledge of the illicit nature of the substance was a disputed issue in his case. Petitioner is cautioned that further abusive, repetitive, malicious, and/or frivolous filing may result in sanctions, such as a bar on *pro se* filing in this court or referral to prison officials for disciplinary procedures which may include forfeiture of gain time. *See State v. Spencer*, 751 So.2d 47 (Fla. 1999); § 944.279(1), Fla. Stat. (2012).

WARNER, TAYLOR and FORST, JJ., Concur.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

cc: Attorney General-W.P.B.

Gregory Ruff

dl

Supreme Court of Florida

WEDNESDAY, AUGUST 28, 2013

CASE NO.: SC13-1245

Lower Tribunal No(s): 4D13-1589,
03-18626 CF10A

GREGORY RUFF

vs. STATE OF FLORIDA

Petitioner(s)

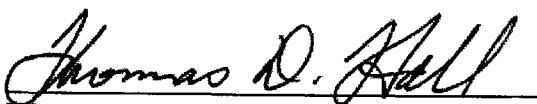
Respondent(s)

Petitioner's "Motion for Resubmitted Basis for Invoking Jurisdiction of the Florida Supreme Court" is hereby denied.

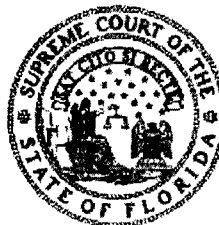
Petitioner's is allowed to and including September 27, 2013 to serve the initial brief on jurisdiction and appendix thereto.

A True Copy

Test:



Thomas D. Hall
Clerk, Supreme Court



eg

Served:

GREGORY RUFF

HON. PAMELA JO BONDI

HON. MARILYN BEUTTENMULLER, CLERK

ATTN: Clerk of Supreme Court
Date: September 4, 2013

2013 SEP -6 PM 2:19
CLERK SUPREME COURT

Dear Clerk,

per this Courts order dated August
28, 2013. I have submitted my brief
on jurisdiction and appendix thereto.

Please file for me. Thank you

Respectfully Submitted
Gregory Ruff
Gregory Ruff

