

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY, FLORIDA
APPELLATE DIVISION**

CHRISTOPHER GRANDA
Petitioner,

UCN: 512019CA000748CAAXES
Case No.: 19-CA-748

v.

STATE OF FLORIDA,
Respondent.

/

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

THIS MATTER came to be heard on the Petitioner's Petition for Writ of Mandamus filed on February 28, 2019. Petitioner seeks removal of a detainer.

The Petitioner was charged by Misdemeanor Information with obstructing or resisting an officer without violence in Pasco County Court case number 17-MM-5377. That case remains open and pending. Petitioner asserts that a detainer has been lodged by the Pasco Sheriff's Office because of that case. Petitioner seeks removal of the detainer because it is preventing him from participating in either work release or work camp while he serves a Department of Corrections sentence in unrelated cases.

The Court first notes that the Petitioner has named the incorrect party as the Respondent. The Pasco Sheriff's Office is the government entity that placed the detainer. Therefore, this Court deems that the Pasco Sheriff's Office is the proper Respondent. See *Jenkins v. State*, 957 So. 2d 20, 22-23 (Fla. 5th DCA 2007) (holding that the circuit court had a sufficient basis to deem the sheriff's office as the proper respondent where Jenkins listed the State of Florida as the respondent but alleged that the Volusia County Sheriff's Office lodged the detainer).

Because the Petitioner has failed to establish a clear legal right to removal of the detainer, the petition must be denied. In the cases cited by the Petitioner, the district courts of appeal noted that those petitions showed a *prima facie* entitlement to relief because the detainers appeared to be improper. See *Moore*, 137 So. 3d at 612-13 (directing the trial court to issue an order to show cause because the petitioner appeared to have completed a contempt of court sentence and yet the Martin County Sheriff's Office

detainer remained); *Jenkins v. State*, 957 So. 2d 20, 23 (holding that the mandamus petition sufficiently alleged his right to have a detainer from 1983 removed). *See also Clapp v. State*, 160 So. 3d 107 (Fla. 4th DCA 2015) (denying a defendant's motion for postconviction relief without prejudice to the defendant to file a petition for writ of mandamus because the violation of probation affidavits that resulted in the detainer had been withdrawn and the detainers were likely now improper).

In the instant petition, however, the county court case which resulted in the placement of the detainer by the Pasco Sheriff's Office is still open and pending. Therefore, the detainer is not improper and the Petitioner has no legal right to its removal.

It is therefore ORDERED that case number 19-CA-748 is hereby DENIED.

DONE AND ORDERED in Chambers in New Port Richey, Pasco County, Florida this ____ day of _____, 2019.

Original Order entered on March 18, 2019, by Circuit Judges Daniel D. Diskey, Shawn Crane, and Kimberly Campbell.

Copies furnished to:

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