

# Third District Court of Appeal

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

Opinion filed February 18, 2009.

Not final until disposition of timely filed motion for rehearing.

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No. 3D08-2109

Lower Tribunal No. 08-23147

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**Anthony J. Stokes,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Spencer Eig, Judge.

Anthony J. Stokes, in proper person.

Bill McCollum, Attorney General, and Lunar Claire Alvey, Assistant Attorney General, for appellee.

Before WELLS, SHEPHERD, and SUAREZ, JJ.

WELLS, J.

Anthony J. Stokes appeals a final order denying his petition for writ of habeas corpus. Because we find that the Eleventh Judicial Circuit lacked

jurisdiction to consider the claim raised in Stokes' habeas petition, we affirm the denial without prejudice for Stokes to seek appropriate relief in the Seventeenth Judicial Circuit.

As this Court explained in Brinson v. State, 988 So. 2d 665, 665-66 (Fla. 3d DCA 2008) (quoting Broom v. State, 907 So. 2d 1261, 1262 (Fla. 3d DCA 2005))

(citations omitted):

The circuit court of the county in which a defendant is incarcerated has jurisdiction to consider a petition for writ of habeas corpus when the claims raised in the petition concern issues regarding his incarceration, but not when the claims attack the validity of the judgment or sentence. Only the court in which the defendant was convicted and sentenced has jurisdiction to consider collateral attacks on a judgment or sentence, and such an attack must be brought pursuant to Rule 3.800 or 3.850, not by petition for writ of habeas corpus.

Because Stokes challenges his conviction and not the conditions of his imprisonment, we affirm the trial court's order without prejudice. "Post-conviction challenges must be pursued in the circuit court where the conviction was obtained." Brinson, 988 So. 2d at 666. Any challenge by Stokes to his conviction or sentence pursuant to Rule 3.800 or Rule 3.850, Florida Rules of Criminal Procedure, should be brought in the Seventeenth Judicial Circuit, where Stokes was convicted and sentenced.

Affirmed without prejudice.