

IN THE SUPREME COURT OF FLORIDA

FILED
SID J. WHITE
MAR 14 1988
CLERK, SUPREME COURT
By _____
Chief Deputy Clerk

CHARLES REVERE BROWN,
Petitioner,

-vs-

CASE NO. _____

LOUIE L. WAINWRIGHT,
Secretary, Department
of Corrections, State
of Florida,
Respondent.

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW the Petitioner, CHARLES REVERE BROWN, pro se, pursuant to article 1, section 13, Florida Constitution (1968), and petitions this Honorable Court to issue a Writ of Habeas Corpus challenging the very fact of his physical imprisonment, and in support of said petition would demonstrate the following:

The judicial power is vested in the Florida Supreme Court conferred by article V, section 3(b)(9), Florida Constitution (1968).

GROUND ONE: PETITIONER IS IN CUSTODY IN VIOLATION OF THE CONSTITUTION OR LAWS OF THE UNITED STATES

FACTS

1. Petitioner is presently unconstitutionally detained and imprisoned at Lawtey Correctional Institution, Lawtey, Florida.

2. Petitioner is presently unconstitutionally detained and imprisoned at Lawtey Correctional Institution by Louie L. Wainwright, Secretary, Department of Corrections, by virtue of a commitment of the Florida Parole and Probation Commission (Exhibit C).

3. The Florida Parole and Probation Commission established Petitioner's presumptive parole release date as July 29, 1988 (Exhibit C).

4. The Florida Parole and Probation Commission established Petitioner's presumptive parole release date based on an unconstitutional conviction (Petitioner's Affidavit).

5. The unconstitutional conviction of "Arson 1st Degree" used by the Florida Parole and Probation Commission gives the Petitioner a salient factor score of 1, and it alters his matrix time range from 0 (Exhibit C).

6. The Florida Parole and Probation Commission increased Petitioner's salient factor score, which, in turn, changed the matrix time range from 20 to 26 months to 30 to 70 months (Exhibit C).

7. Had Petitioner's salient factor not been increased, he would have been entitled to be released at the end of 26 months, or in September 1985, not, as the Florida Parole and Probation Commission decided in 60 months, or in July 1988.

8. The conviction qua conviction considered, Petitioner's salient score would be 0, with a September 29, 1985 release date, but by considering the commitment, the salient factor score is 1, and the release date extended to July 1988.

9. Petitioner's commitment to prison based upon an unlawful conviction is as unlawful as the judgment which supports it (COMPARE, Exhibits A, B and C).

10. With Petitioner's unconstitutional conviction or commitment eliminated from consideration, as the Constitution requires, Petitioner's proper salient score factor is 0, and the matrix time range which applies is 20 to 26 months, not 30 to 70 months.

11. Petitioner is imprisoned pursuant to a conviction or commitment that is illegal and void for the reasons presented above and those set forth in the Memorandum of Law in Support of the Petition for Writ of Habeas Corpus, in Petitioner's Affidavit, and in the Exhibits attached hereto, all of which are incorporated by reference herein.

WHEREFORE, for the reasons stated in Points 1 through 11, Petitioner would respectfully request this Honorable Court's determination that he is entitled to immediate release from imprisonment and after full consideration this Court relieve Petitioner of the unconstitutional restraint on his liberty by issuing a Writ of Habeas Corpus and grant such other, further and different relief as it may deem just and proper.

Respectfully submitted,

RHT

Charles Revere Brown

CHARLES REVERE BROWN, PRO SE
Lawtey Correctional Inst.
P. O. Box 229 -- 092957
Lawtey, FL 32058

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to JIM SMITH, Attorney General, State of Florida, The Capitol, Suite 1501, Tallahassee, FL 32301 and LOUIE L. WAINWRIGHT, Secretary, Department of Corrections, 1311 Winewood Blvd., Tallahassee, FL 32301, by U.S. MAIL, this 12th day of March, 1986.

Charles Revere Brown

CHARLES REVERE BROWN, PRO SE

Subscribed and sworn to before me
this 12th day of March,
1986.

James R. McDonald
NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. MAY 23, 1988
BOND \$10,000.00