

FLORIDA SUPREME COURT

MICHAEL CHARLES DESUE,
Petitioner

CASE NO: _____

vs.

L.T. 92-0266 Cts 1-3, 1D92-3016,
1D07-2414, 1D11-4359, 1D12-3662
SC16-720

THE STATE OF FLORIDA & THE
DEPARTMENT OF CORRECTIONS, SECRETARY
MRS. JULIE JONES

Respondents

PETITION FOR WRIT OF HABEAS CORPUS

BY Petitioner, Michael Charles Desue, pro se, pursuant to Fla. R. App. P. 9.100
moves the Supreme Court into a petition for writ of Habeas Corpus to be
granted relief from a false imprisonment scheme.

JURISDICTION INVOKED

This court has competent jurisdiction to correct a manifest injustice
that the Circuit Court refuses to correct that has competent jurisdiction
where a person has been false imprisoned by intrinsic fraud
by the Circuit Court and Clerk of the Court. See Jamason v. State, 447
So.2d 892, 895 (Fla. 4th DCA 1983) approved 455 So.2d 380 (Fla. 1984);
State v. Burton, 314 So.2d 136, 137-138 (Fla. 1975); Santana v. Henry,
12 So.3d 843, 848 (Fla. 1st DCA 2009); Henry v. Santana, 62 So.3d 1122
(Fla. 2011); See Harris v. Nelson, 394 U.S. 286, 291 89 S.Ct. 1082, 22 L.Ed.
2d (1969) (discharge hearing). The petitioner asserts at a hearing before this
court he will waive any civil rights violation lawsuit. See Article I sec. 13
Florida Constitution.

NATURE OF RELIEF SOUGHT

The petitioner seeks a discharge hearing to be conducted by the
Supreme Court necessary to remedy a serious manifest injustice that
the Lower Court is trying to circumvent, because of their involvement
in this intentional false imprisonment scheme. In alternative this
Court should direct the Circuit Court to conduct a immediate discharge
hearing.

FILED
JOHN A. TOMASINO
JUL 11 2016

CLERK, SUPREME COURT

11. Alternative direct the Bay County Circuit Court to conduct pro se proceedings on the 3.850 Habeas Corpus attached as Appendix A. infra, and direct the court to appoint indigent petitioner counsel to guarantee him due process in the Circuit Court.

STATEMENT OF FACTS

The Supreme Court on June 16, 2016 authorized petitioner to file a habeas corpus under Rule 3.850 to Bay County Circuit Court. on case no. 92-0266 in case no. SC16-720 See Appendix A. infra (Supreme Court case no. SC16-720 June 16, 2016 order). On June 22, 2016 petitioner filed the habeas corpus pro se to Bay County Circuit Court Challenging the June 30, 1992 Robbery with a firearm, and July 1, 1992 Robbery conviction verdicts under case no. 92-0266 as ct 1 each as null and void entered with the Court having subject matter jurisdiction, on June 27, 2016 the Clerk Bill Kinsaul clocked-in the petition at 2:41 PM, but put a letter X mark over the clock-in date and returned it to petitioner on July 5, 2016 which he received through incoming court legal mail prison services by official Mrs. Griswold that included a April 24, 2007 pro se sentencing bar concerning a habitual offender sentence under nolle prosequi case no. 92-0266 filed by the state on July 2, 1992, "no jurisdiction existed for the court to enter this subsequent order." The order had to be referenced to the 30 years habitual offender sentence for Robbery if any, because "a habitual offender sentence was not orally pronounced by the court on the life sentence for Robbery with a firearm". See Appendix B. infra (8/5/92 Sentencing transcript pgs. 11-12 infra; Appendix C. infra (Case no. 92-0266 July 2, 1992 nolle prosequi order). De Sue was not completely pro se barred on challenging the convictions, and the sentence of life in prison for Robbery with a firearm. The Circuit Court could not withdraw the petition. See *Gracy v. Fielding* 83 FIA 388 91 So. 373 (1922); See *Huffman v. State*, 693 So. 2d 570 (FIA. 2nd DCA 1996), quoted in *State v. Spencer*, 751 So. 2d 47-49 (FIA. 1999); *Jordan v. State*, 760 So. 2d 973 (FIA. 2nd DCA 2000).

Bay County Circuit Court and Clerk Carolyn Graham fabricated subject matter jurisdiction for the state under case no. 92-0266 on the Robbery and Robbery with a firearm offenses, and convicted him in separate jury trials on June 30, 1992 and on July 1, 1992, and Certifying fraudulent Commitment papers upon Department of Corrections to intentionally false imprisonment petition on a August 5, 1992 non-Certified Judgment of Conviction for Robbery with a firearm as ct. 3 and Robbery as ct. 2 under case no. 92-0266. See Appendix B & C. infra. Now the court don't want their actions exposed so they withdrew his 3.850 habeas Corpus from the record requiring actions from this court.

See *O'Berry v. State*, 46 So. 3d 105 (Fla. 4th DCA 2010); Appendix A. infra (HFO Sentence prose book).

These Robbery and Robbery with a firearm offenses were under clerk of Court file no(s) 92-0263 and 92-0264 that appeared on the April 23, 1992 Amended charging information, which the State did not file two or more charging informations on these file numbers nor a motion to consolidate these offenses with the charged crime of Cocaine offense, because they were not related. See Fla.R.Crim.P. 3-151 (B); See Appendix B & C infra (Amended charging informations).

The state attorney in the amended information listed the Robbery as ct. 2 and Robbery with a firearm as ct. 3, but defense counsel filed a motion for severance on case no(s) 92-0266, 92-0263, and 92-0264. On June 29, 1992 the severance was granted. The Cocaine charge remained under case charging jurisdiction no. 92-0266 ct. 1, and the Robbery returned to clerk file no. 92-0263, and clerk file no. 92-0264 on the Robbery with a firearm, which no jurisdiction existed to tried the petitioner. See Appendix D. infra (motion for severance).

The Court and Clerk Carolyn Graham still fabricate the Robbery under ct. 2 of case no. 92-0266 and the Robbery with a firearm as ct. 3 in the clerk of Court minutes to fabricate having subject matter jurisdiction is record fraud. See Appendix E. infra (Clerk minutes); See Appendix C. infra (June 2, 1992 cocaine charging information).

At sentencing on August 5, 1992 the court did not adjudicate the petitioner guilty and sentence him under case no. 92-0266 ct. 4. Robbery with a firearm and did not adjudicate him guilty and sentence him under case no. 92-0266 ct. 1. Robbery consistent with the June 30, 1992 verdict for Robbery with a firearm and consistent with the July 1, 1992 verdict for Robbery, because no jurisdiction existed under case no. 92-0266 ct. 1, because these verdicts were null and void.

The court fabricated jurisdiction under case no. 92-0266 ct. 2 for the Robbery and entered a 30 years habitual offender sentence, and as ct. 3 for Robbery with a firearm and entered a life non-habitual offender sentence false imprisonment. The petitioner where under case no. 92-0266 no multiple counts 2 and 3 jury trial conviction verdict does not exist to support this judgment that was entered by intrinsic fraud by the court. See Appendix B. infra (sentence transcripts).

Clerk Graham did not certify this August 5, 1992 fraudulent judgment of conviction under case no. 92-0266 ct. 2 and ct. 3 to be true and correct when she entered the June 30, 1992 void Robbery with a firearm verdict and July 1, 1992 void Robbery verdict into the clerk of Court records and files.

See Appendix C. *infra* (June 30, 1992 verdict and July 1, 1992 verdict); Appendix B. *infra* (Bay County August 5, 1992 Judgment and sentences detention order). The Clerk Graham did not certify the Judgment of Conviction, which DOC should have refused to accept custody of the petitioner on August 14, 1992 under Sec. 944.17(5)(A) F.S. (1991).

Moreover the Clerk on the Commitment Checklist put conviction date being 6/30/92, and nolle prosequi case no. 92-0266 on this form and did not put ct. 2 and ct. 3 on it, because the Clerk knew on June 30, 1992 (6/30/92) the petitioner was not convicted under case no. 92-0266 as ct. 2 Robbery and as ct. 3 Robbery with a firearm by a multiple counts 2 and 3 conviction verdict. DOC during Admission believe on 6/30/92 that a jury convicted petitioner under case no. 92-0266 ct. 2 Robbery and ct. 3 Robbery with a firearm where the sentencing order is certified to be true and correct.

If DOC Admission had a conviction document authentication policy they would have discovered the Judgment and sentences transported was the product of intrinsic fraud by Bay County Circuit Court, which the clerk Carolyn Graham intentionally omitted putting 7/1/92 as the Robbery conviction date with the 6/30/92 listed conviction date for Robbery with a firearm on the Commitment Checklist for DOC would not discover the single Judgment and sentences order was fraud, void, and illegal. See Appendix B. *infra*, See Appendix C. *infra* (Verdicts 6/30/92 & trial transcripts pgs 226-228 + 7/1/92 verdict & trial transcripts pgs 193-196).

The First DCA Per Curiam Affirmed this void, fraudulent, and illegal Judgment and sentences under case no. 92-0266 ct. 2 and ct. 3 on direct appeal on case no. 1D92-3016 on LT case no. 92-0266 on May 27, 1994 mandated on June 14, 1994 and has assisted Bay County Circuit Court with concealing this false imprisonment scheme by entering a void, and illegal pro se bar sanction on case no. 92-0266 on October 12, 2012, when case no. 92-0266 had been nolle prosequi on July 2, 1992 and the first dca had never entered a previous pro se bar by a three panel of Judges decision in the previous appeal on case no. 1D11-4359, and sanction him for seeking a belated appeal when section 944.279 F.S. cannot be employed when a person seeks a belated appeal. See Appendix F *infra* (direct appeal and mandate); Appendix C *infra* (nolle prosequi order); See *Desue v. Tucker*, 100 So. 3d 151, 152 (Fla. 1st DCA 2012); See *Saucer v. State*, 779 So. 2d 261, 262 (Fla. 2001); *Desue v. State*, 79 So. 3d 23 (Fla. 1st DCA 2012) (case no. 1D11-4359 appeal held prior to belated appeal 1D12-3662),

GROUND ONE

THE BAY COUNTY CIRCUIT COURT REFUSES TO DISCHARGE PETITIONER FROM CUSTODY WHERE HE IS FALSE IMPRISONMENT BY A INTRINSIC FRAUD AUGUST 5, 1992 ENTERED JUDGMENT OF CONVICTION AND SENTENCES UNDER CASE NO. 92-0266 AS CT-2 ROBBERY AND AS CT-3 ROBBERY WITH A FIREARM THAT MANIFEST INJUSTICE BECAUSE THE CIRCUIT COURT LACKED SUBJECT MATTER JURISDICTION. JUSTICES OF THIS COURT HAS NOW LEARNED ABOUT THE INTRINSIC FRAUD.

FALSE Imprisonment of a person without the Circuit Court correcting it which this Court in case no. SC16-720 directed this petitioner to file a 3.850 Fla. Crim. P. Habeas Corpus to the Circuit Court. See Appendix A-infra (Supreme Court's opinion issued June 16, 2016 on case no. SC16-720 on Lt. case no. 92-0266).

The August 5, 1992 entered Judgment and Sentences under case no. 92-0266 as ct. 2 Robbery with a 30 years habitual offender sentence and as ct. 3 Robbery with a firearm with a life imprisonment non-habitual offender sentence was entered by fraud and sentences was certified by Clerk of Court Carolyn Graham to be true and correct made The Department of Corrections believe it was enforceable under Section 944.17(5)(A) F.S. (1991).

Nevertheless, the April 23, 1997 Amended Certified Charging information listing ct. 2 As Robbery and ct. 3 As Robbery with a Firearm was fraudulent Certified upon The Department of Corrections under Section 944.17(5)(c) Fla. Stat. (1991), which the fraudulent entered Judgment and sentences detention order and Amended Charging information is in DOC Admission files of Central Office who has DeSue false imprisoned within DOC prison facility. See Appendix B-infra (Uniform Commitment form, Commitment Checklist, Judgment of Conviction and sentences, Amended Information Charging)

On 6/30/92 the petitioner was not convicted by a jury on multiple counts 2 Robbery and count 3 Robbery with a firearm under case no. 92-0266 verdict by Juror foreperson Bonnie Blue, which Clerk Carolyn Graham listed as the conviction date on the commitment checklist, and certified the August 5, 1992 Judgment and Sentences under case no. 92-0266 ct. 2 Robbery with a 30 years prison sentence and ct. 3 Robbery with a firearm with a

Life Sentence was fraud by the Court, which Bay County Circuit Court does not want to expose on its Court and Clerk, leaving this petitioner false imprisoned without penological justifications. This Act is the substance of a true manifest injustice as well as a miscarriage of justice, which The Supreme Court has competent jurisdiction under these extraordinary circumstances to correct. See *Jamson v. State*, 447 So.2d 892, 895 (Fla. 4th DCA 1983) approved 455 So.2d 380 (Fla. 1984) by The Florida Supreme Court,

If it appears to the court of competent jurisdiction that a man is being illegally restrained of his liberty it is the responsibility of the court to brush aside formal technicalities and issue appropriate order as will do just justice.

It has also been held in *Stang v. State*, 24 So.3d 566, 569 (Fla. 2nd DCA 2009), which Stang was discharged from custody the Court stated

As a practical matter [i]f the challenged detention order [is] determined to be in violation of the petitioner's constitutional guarantee of due process then the order would be illegal, and not merely, defective irregular or insufficient in form or substance.

In the case at bar the Judgment and sentence is under case no. 92-0266 imposed on August 5, 1992 which Bay County State Attorney office had nolle prosequi case no. 92-0266 on July 2, 1992 no jurisdiction existed for the Court to enter a Judgment. See *T.D. v. K.D.* 747 So.2d 456, 457 n.2 (Fla. 4th DCA 1999) (case jurisdiction) quoted in *Marina San Pablo Place Spc LCC v. VCP-SAN PABLO Ltd*, 92 So.3d 320, 321 (Fla. 1st DCA 2012).

Nevertheless Bay County Circuit Court Jury verdict is under case no. 92-0266 ct 1 for Robbery with a firearm entered on 6/30/92 sign by foreperson Bonnie Bice. Bay County knew on March 2, 1992 Bay County State Attorney office had formally charged MR. Desue with an offense of "Sale of Cocaine" under case no. 92-0266 ct 2 violation of Sec. 893.13 F.S. (1991), and charged it in a void, illegal, and fraudulent April 23, 1992 Amended

charging information, adding as ct. 2 Robbery and as ct. 3 Robbery with a firearm unrelated offenses to the cocaine charge.

The Amended Charging Information captioned case no(s) 92-0266, 92-0763, 92-0764 as case jurisdiction was found by the state fabricating subject matter jurisdiction on these Robberies by a illegal consolidation, where original informations had never been filed on case no. 92-0763 Robbery clerk file number and on case no. 92-0764 Robbery with a firearm clerk file number. See Fla. R. Crim. P. 3.151(B) (requires two or more indictments or informations).

Nevertheless, the state attorney never filed a motion to consolidate these Robbery cases with state of Cocaine charge, because they were unrelated offenses. See Fla. R. Crim. P. 3.151(B) (state must file a motion to consolidate charging informations); See Appendix C. infra (Nolle prosequi July 2, 1992 order; June 30, 1992 Robbery with a firearm verdict & trial transcripts pgs. 226-228 March 2, 1992 Original Information charging February 1, 1992 Arrest Affidavit for Sale of Cocaine & First Appearance February 8, 1992 sheet, April 12, 1992 First Appearance sheet Capias Arrest file no. 92-0763 Robbery, and file no. 92-0764 Robbery with a firearm, April 8, 1992 probable cause Affidavits).

Moreover, on June 29, 1992 case no(s) 92-0266, 92-0763, and 92-0764 were severed. case no. 92-0266 case jurisdiction returned to the charged offense of State of Cocaine, the Robbery returned to clerk file no. 92-0763 and Robbery with a firearm returned to clerk file no. 92-0764 in which there was no subject matter jurisdiction because the state never filed charging informations on these offenses and clerk file numbers. See *Booker v. State*, 497 So. 2d 957, 958 (Fla. 1st DCA 1986); See *Tanner v. State* 744 So. 2d 1017 (Fla. 4th DCA 1997) (clerk file numbers); See T.D. 747 So. 2d 457 n.2; *The Booker*, court held,

Once the trial court below granted the appellant's motion to sever the intent of the constitutional provision was defeated, and any relationship between the felony and misdemeanor charges became irrelevant. 497 So. 2d at 958.

See *Sadler v. State*, 949 So. 2d 303, 305 (Fla. 5th DCA 2007).

The defense Counsel Paul Komarek filed a pretrial motion for severance on June 18, 1992 on case no(s) 92-0266, 92-0763, and 92-0764. See Appendix D. infra (Motion for Severance).

The Court and Clerk Carolyn Graham on her Clerk minutes on June 29, 1992 granted the severance, but they committed Record fraud when they schedule the Robbery with a firearm for trial under case no. 92-0266 as ct. 3 for June 30, 1992, Robbery trial under case no. 92-0266 as ct. 2 for July 1, 1992, when the severance was granted and there was not any relationships between these Robberies and cocaine offense, where the Cocaine offense had been charged under case no. 92-0266 case jurisdiction. See Appendix E. infra (Clerk minutes).

It must be noted the June 29, 1992 proceedings were never ordered transcribed by the Court-Reporter Sherri Lessig, who would not certify the August 5th, 1992 Sentencing transcripts and June 30, 1992 Robbery with a firearm trial proceedings. See Appendix B + C infra (Sentence + trial transcripts).

This fabricating jurisdiction scheme was a predeposited plan by the State Attorney, Court, and the Clerk that violate MR. DeSue's Constitutional rights of due process. See *Marshall v. Terrico Inc*, 496 U.S. 238 100 S.Ct. 1610, 1613 64 L.Ed. 2d 182 (1980).

The Clerk Carolyn Graham entered the June 30, 1992 Robbery with a firearm verdict into the clerk records, she knew the August 5, 1992 Judgment and Sentences under case no. 92-0266 as ct. 2 Robbery with a 30 years prison sentence and as ct. 3 Robbery with a firearm with a life imprisonment sentence was intentional fraud by the Court to false imprisonment MR. DeSue. See Appendix C. infra (6/30/92 Verdict).

Nevertheless by fraud she altered the August 20, 1992 Notice of Direct Appeal to have The First DCA to conduct an appeal on Bay County Case no. 92-0266 without jurisdiction in case no. 1092-3016 with none certified trial transcripts on the Robbery with a firearm and on none certified Sentencing transcripts, which The First DCA Per Curiam Affirmed on May 27, 1994 issued a mandate on June 14, 1994 on case no. 1092-3016 on LT. Case no. 92-0266 is a serious manifest injustice to false imprisonment a innocent man MR. DeSue. See *DeSue v. State*, 638 So. 2d 940 (Fla. 1st DCA 1994); *Brown v. State*, 639 So. 2d 634 635 (Fla. 5th DCA 1994) (In criminal cases appellant must file a certified copy of the trial transcripts, certified transcripts ensures accurate

and complete record in a criminal appeal); See Appendix F. *infra* (May 27, 1994 Direct Appeal non-written opinion Public Defender Glen P. Gifford¹ Represented DeSue + June 14, 1994 mandate); Appendix E. *infra* (Notice of Appeal).

Void and illegal pro se bars and a pro se sanction has been entered under case no. 92-0266 subsequently after the *nocte prosequi* on July 2, 1992 in *DeSue v. State* 975 So. 2d 1136 (Fla. 1st DCA 2008)²; *DeSue v. Tucker*, 100 So. 3d 151, 152 (Fla. 1st DCA 2012) discretionary review denied in *DeSue v. Crews*, 123 So. 3d 557 (Fla. 2013) that violates the First Amendment to the U.S. Constitution.

The Circuit Court motive is not hidden, perhaps its clear they are trying to circumvent the record fraud that has been now exposed to the Justices of the Supreme Court who has competent jurisdiction to correct this injustice and discharge Mr. DeSue from this false imprisonment scheme. See *State v. Burton*, 314 So. 2d 136, 137 (Fla. 1975) This Supreme Court held as between the parties any judgment or order procured from any court by practice of fraud or deception may in appropriate proceedings be set aside at any time.

This is the great writ of habeas corpus and is a writ of right obtainable under our constitution by all men who claim to be unlawfully imprisoned against their will. It is designed to test solely the legality of the prisoner's imprisonment. *Sneed v. Mayo*, 66 So. 2d 865, 869 (Fla. 1953).

Here, a Circuit Court judge who produced a judicial act by entering a fraudulent judgment of conviction and sentences now learned by The Supreme Court Justices who shall recall it for the its Lower Circuit Court to correct this injustice of having Mr. DeSue

9.

1. Glen P. Gifford became Law Clerk for Justice Barbara Pariente who did not notify the court on Appeal that the Court-Reporter Sherri Lessig would not certify the transcripts for Appeal purposes.

2. The April 24, 2007 pro se bar asserts Bay County Circuit Court and the First DCA has repeatedly found DeSue's habitual offender sentence legal. See Appendix A. *infra* (pro se sentence HFO bar). The trial sentencing transcripts pg 12 at Appendix B *infra* reflects the court did not oral pronounce a life sentence as a habitual offender, but the written judgment and sentences designate the life sentence to be as a habitual offender. The pro se sentence bar was entered by biasness, and with a hidden motive. The oral pronouncement controls DeSue only scored out on the guideline sentence to a sentence of 17 to 22 years prison. DOC recommended 20 median. Appendix B. *infra* (Guideline scoresheet & written judgment and sentences order).

False imprisonment against his will that violate his civil rights, which he suffers a deprivation of his Liberty is the conduct of cruel and unusual punishment that violates his 8th Amendment to the U.S. Constitution, and under Article 1 Sec. 17 to Florida Constitution rights that prohibits cruel and unusual punishment. Moreover, the Clerk of records by fraud Certified the April 23, 1992 Amended Charging information upon the Department of Corrections, which Clerk Carolyn Graham knew case no(s) 92-0260, 92-0763, + 92-0764 had been severed and that no jurisdiction exist under file no(s) 92-0763, and 92-0764, because the State never filed charging informations on these file numbers to invoke jurisdiction of the Circuit Court. Clerk Graham fade out the Circuit Court in the Caption, because she knew it was an instrument of intrinsic fraud. See Appendix B. infra (Certified Amended Charging information under section 944.17(5)(C) Fla-Stat (1991); See Article 1 sec. 15 Fla Constitution.

GROUND TWO

THE COMMITMENT PAPERS IN THE DEPARTMENT OF CORRECTIONS FILES UNDER BAY COUNTY CIRCUIT COURT CASE NO. 92-0266 IS THE PRODUCT OF INTRINSIC FRAUD BY THE COURT WHICH DOC IS DETAINING HIM UPON BY FALSE IMPRISONMENT.

It has been held DOC is charged with the duty of keeping adequate commitment files on a prisoner, under section 944.17 F.S. See Hampton v. State, 421 So.2d 775 (Fla. 5th DCA 1992); but see Edwards v. Crews, 124 So.3d 422, 423 (Fla. 1st DCA 2012).

DOC Admission policy requires a certified judgment and sentence detention order and a certified charging information under sec. 944.17(5)(A) & (C) F.S. (1991); See Appendix B. infra (Commitment papers).

The April 23, 1992 Amended charging information and August 5, 1992 Judgment and Certified Sentences under case no. 92-0266 ct. 2 Robbery with a 30 years prison sentence and ct. 3 Robbery with a Fire-Arm with a Life sentence.

iterated in Ground one of this petition is the product of intrinsic fraud by Bay County Circuit Court upon DOC. Burton, 314 So. 2d 138.

DOC bears a responsibility to determine whether to accept or refuse custody of a person from the transportation official, DOC, and even The First DCA knows DeSue is false imprisoned in DOC custody by commitment papers record fraud, which the First DCA issued a writ, void, and illegal pro se sanction to prevent false imprisonment litigations against DOC for erroneously accepting custody of him on August 14, 1992 under case no. 92-0266 of Bay County Circuit Court. See DeSue, 100 So. 3d 151; DeSue, 123 So. 3d 557; Sec. 944.17 (5) F.S. (1991).

Bay County Circuit Court and Clerk knew DOC designed a commitment checklist merely allowing the clerk to list a conviction date on the form which legislature under Sec. 944.17 (4) & (5) subsection "did not require the sentencing court to provide a certified verdict document to authenticate the clerk of court listed conviction date on the form to be provided to DOC reception officials caused DOC to false imprisonment. petitioner", which Bay County Circuit Court or DOC does not want to bear responsibility for this act. Clerk Carolyn Graham listed 6/30/92 as the jury conviction date on the form, which she did not reference to ct. 2 or ct. 3 on the Commitment Checklist form, because she was the clerk of the 6/30/92 jury trial and knew the jury did not under case no. 92-0266 enter a multiple ct. 2 and ct. 3 conviction verdict against Mr. DeSue.

This was a act of deception by Clerk Graham to make DOC Admission believe and assume that on 6/30/92 a single jury convicted MR. DeSue under case no. 92-0266 as ct. 2 for Robbery and as ct. 3 for Robbery with a Firearm that is reflected on the August 5, 1992 Judgment that Clerk Carolyn Graham did not certify to be true and correct. DOC had to refuse custody of him even tho the sentences order portion is certified, which the verdict reflects under case no. 92-0266 ct. 1 a jury trial conviction on 6/30/92 for Robbery with a Firearm, which Bay County Circuit Court "did not have jurisdiction to enter a legal Judgment of Conviction and Sentence order under

Case no. 92-0266 ct. I for the Robbery with a firearm, because the State had charged him with Sale of Cocaine as ct. I in the original and void, fraudulent, and illegal Amended Charging Information. See Appendix C. infra (March 2, 1992 original information), Appendix B. infra (Certified Amended Charging Information).

Clearly DOC Admission seen the August 5, 1992 Judgment of Conviction portion under case no. 92-0266 ct. II Robbery³, and ct. III Robbery with a firearm was not certified by Clerk Carolyn Graham, because it was intrinsic fraud and where it was not certified as required under section 944.17(4) & (5) (A) F.S. DOC Admission and Reception should have refused to accept custody of petitioner which his detention is unlawful⁴. The Judgment of Conviction is void and violates constitutional due process as said in *Strong*, 24 So.3d 569.

This is an emergency discharge situation where Bay County Circuit Court is unwilling to correct this manifest injustice, because the Clerk Office Clerk Deputy Carolyn Graham is involved in this scheme cause the Clerk to clock-in the hubens petition, but withdrew it on a void pro se bar order. See *Dean v. Ryan*, 27 So.3d 37 (Fla. 3rd DCA 2010) (Emergency discharged); *Henry*, 12 So.3d 843.

The Supreme Court has competent jurisdiction to correct this injustice to undo this false imprisonment by conducting a discharge hearing or directing the Circuit Court to do so. DeSue promised this Court he will waive any rights of a Civil tort suit to gain his Liberty that is do to him. See *Santana v. Henry*, 12 So.3d 843, 848 (Fla. 1st DCA 2009) quoting *Harris v. Nelson*, 394 U.S. 286, 291 89 S.Ct. 1082, 22 L.Ed. 2d (1969); *Henry v. Santana*, 62 So.3d 1122 (Fla. 2011); *Jamason*, 455 So.2d 380.

CONCLUSION

Bay County Circuit Court does not want to correct a serious injustice done to petitioner Mr. DeSue this court must sound the alarm correcting this manifest injustice for its Lower Court to guarantee petitioner due process.

And this Court should recall the void pro se bars, and pro se sanction decision in Bay County Circuit Court and The First District Court of Appeal in reference to case no. 92-0266 entered subsequently to the nolle prosequi order not limited to recalling case no. 1072-3016 direct appeal Per Curiam Affirm opinion to correct this manifest injustice. See *Struzzulla v. Hendrick*, 177 So.2d 1, 4 (Fla. 1965).

OATH

Under the Penalty of perjury I petitioner Michael DeSue has read this petition and understand its contents, and that all of the facts stated therein are true and correct.

Accord: State v. Shearer, 628 So.2d 1162 (Fla. 1992)

Executed on this 7 day of July, 2016.

Michael C. DeSue
MICHAEL CHARLES DESUE

CERTIFICATE OF SERVICE

I HEREBY DO CERTIFY that this writ for Habeas Corpus with Appendixes A-F has been placed in the hands of a Department of Corrections prison official to be mailed to, Clerk John Tomasino, The Florida Supreme Court, 500 South Duval Street, Tallahassee, Florida 32399-1927, General Counsel of The Department of Corrections, 501 South Calhoun Street, Tallahassee, Fla 32399-2500; State Attorney Glenn Hess Bay County, P.O. Box 1040, Panama City, Florida 32402, and to Attorney General Pamela Jo Bondi, P.O. The Capitol, Tallahassee, Fl 32399-1050 on this 7 day of July, 2016.

PROVIDED TO FRANKLIN CI
FOR MAILING ON

7/7/16

INMATE INITIALS mt

DC#
Michael C. DeSue 729878
MICHAEL CHARLES DESUE DC# 729878
FRANKLIN CORRECTIONAL INSTITUTION
1760 Hwy 67 NORTH
CARRABELLE, Florida 32322

- 3. The July 1, 1992 jury verdict is not listed on the Commitment Checklist as a conviction date, but DOC has assumed the petitioner was convicted on 6/30/92 with the Robbery with a Firearm offense, when he was not which DOC has him false imprisoned currently serving 30 years concurrent with the null and void life sentence As of 2 and of 3 on the fraudulent judgment and sentences. See Appendix C infra (July 1, 1992 trial Robbery verdict and transcripts pgs 193-196); Appendix B. infra (commitment check 195 & August 5, 1992 Judgment and sentences written & Sentencing transcripts none certified pgs. 11-14).
- 4. The certified probable cause affidavits were fraudulently copied by the Clerk to Not let DOC Admission see case nos) 92-0263 warrant #169-92, and 92-0764 warrant #169-92. See Sec. 944.97(5)(d) F.S. (1991) Appendix B. infra (Probable cause Affidavits by fraud) compare to Appendix C. infra (Probable Cause Affidavits).

Supreme Court of Florida

THURSDAY, JUNE 16, 2016

CASE NO.: SC16-720
Lower Tribunal No(s):
031992CF000266XXAXMX

MICHAEL CHARLES DESUE vs. JULIE L. JONES, ETC.

Petitioner(s)

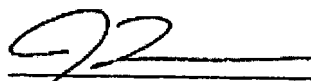
Respondent(s)

The petitioner has filed a petition for writ of habeas corpus with the Court. To the extent the petitioner seeks the type of relief available in a motion filed pursuant to Florida Rule of Criminal Procedure 3.850, the petition is dismissed as unauthorized. See Baker v. State, 878 So. 2d 1236 (Fla. 2004). To the extent the petitioner challenges the actions of the Department of Corrections, the petition is dismissed without prejudice to seek relief in the appropriate circuit court. Any motions or other requests for relief are also denied. No rehearing will be entertained by this Court.

PARIENTE, LEWIS, QUINCE, CANADY, and POLSTON, JJ., concur.

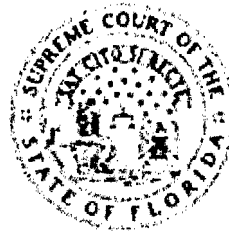
A True Copy

Test:



John A. Tomasino

Clerk, Supreme Court



two

Served:

KENNETH SCOTT STEELY
MICHAEL CHARLES DESUE
TRISHA MEGGS PATE
HON. BILL KINSAUL, CLERK

DC#
Michael DeSue 729878
31-108(u)
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MAILED FROM A STATE
CORRECTIONAL INSTITUTION

Appendix A
Mr. Bill Kinsaul
Clerk of Bay County
Circuit Court 4th Street
300 East
Post Office Box 2269
Panama City, Florida 32402-2269

FILED
2016 JUN 27 12:01
BILL KINSAUL
CLERK OF COURT
BAY COUNTY, FLORIDA

Appendix-A

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
STATE OF FLORIDA IN AND FOR BAY COUNTY

MICHAEL CHARLES DeSUE,

Plaintiff/Petitioner

Case No. 92-0266 cts 1-3

Supreme Court Case No. SC16-720

vs.

THE STATE OF FLORIDA,

Respondent

PETITION FOR WRIT OF HABEAS CORPUS IS FILED
FROM THE SUPREME COURT'S JUNE 16, 2016 ORDER
ON CASE NO. SC16-720.

Petitioner, Michael Charles DeSue, pro se, files a Petition for Writ of Habeas Corpus to this Circuit Court pursuant to Fla. R. Crim. P. 3.850 by the Supreme Court's June 16, 2016 order on case no. SC16-720 served on Clerk Bill Kinsaul. The Clerk shall file this prose petition with the court and not return it to petitioner. See Appendix A. infra (Supreme Court order).

JURISDICTION INVOKED

This Circuit Court has exclusive jurisdiction to entertain and grant relief to a habeas corpus petitioner who has been false imprisoned by a miscarriage of justice, where he was never adjudicated guilty or sentenced on the jury's verdicts, because the Circuit Court knew they were void being entered "without jurisdiction", and the Clerk of Court fabricated the commitment papers delivered by the Sheriff Deputy upon

The Department of Corrections on August 14, 1992. See Article 1 Sec. 13 Fla. Const. See Santana v. Henry, 12 So.3d 843 (Fla. 1st DCA 2009); Henry v. Santana, 62 So.3d 1122 (Fla. 2011); Harris v. Nelson, 394 U.S. 286, 291 89 S.Ct. 1092 22 L.Ed. 2d (1969) (authorize discharge hearing); T.D. v. K.D. 747 So.2d 456, 457 N2 (Fla. 4th DCA 1999), quoting MARINA San Pablo Place

Spe LLC v. VCP-San Pablo Ltd, 92 So.3d 320, 321 (Fla. 1st DCA 2012); Jamson v. State, 447 So.2d 892, 895 (Fla. 4th DCA 1983) decision approve 455 So.3d 380 (Fla. 1984).

DIRECTIONS TO THE CLERK AND DOC GENERAL COUNSEL

FILED
JUL 24 2016
CLERK OF COURT
BAY COUNTY FLORIDA

The Supreme Court authorized petitioner to file a 3-850 versing the State of Florida in Bay County Circuit Court on June 16, 2016 attached as Appendix A. infra (Supreme Court June 16, 2016 order) on his pro se habeas Corpus. Pursuant to Sec. 28.211, 28.222(1) (2) and 28.13 Fla. Stat. Annotated the Clerk Bill Kinsaul shall file this petition with the court once clocked in records of the clerk's office

This Court, DOC General Counsel, Second Judicial Circuit Court, First District Court of Appeal, and the Supreme Court knows case no. 92-0266 was nolle prosequi by Bay County States Attorney office on July 2, 1992, the subsequent entered pro se bars on April 24, 2007, January 21, 2015, and on October 12, 2012 by the First District Court are void orders as a matter of the law that has been illegal employed to not correct a miscarriage of justice done to Mr. Michael DeSue, resulting in DOC writing DeSue a bogus disciplinary report on March 23, 2015 by guidance of this Court pending in DeSue v. DOC case no 2015-CA-1422 in Leon County Circuit Court. See Appendix A. infra (July 2, 1992 nolle prosequi order).

NATURE OF RELIEF SOUGHT

The petitioner seeks the relief of a "Scheduled discharge hearing" to be conducted in Bay County Circuit Court where he was intentionally false imprisoned by this Court with efforts of Clerk Deputy Carolyn Graham. Counsel should be appointed to the indigent petitioner upon scheduling the hearing.

TIMELINESS OF THE PETITION

The petitioner asserts the Jury verdict by foreperson Bonnie Blue entered without jurisdiction under case no. 92-0266 ct. 1 for Robbery with a firearm is void, and the jury verdict by foreperson Charles Spencer entered without jurisdiction under case no. 92-0266 ct. 2 for Robbery is void, court lacked of subject matter jurisdiction can be raised at anytime outside Fla. R. Crim. P 3.850 two years period of time limitation. See Waggy v. State, 935 So.2d 571, 573 (Fla. 1st DCA 2008); State v. Burton, 314 So.2d 136-138 (Fla. 1975)

Case no. 92-0266 ct. 1 was charged by the State on a unrelated sale of cocaine charge on March 2, 1992 charging information, and amended on

April 23, 1992 from a alleged February 1, 1992 incident.

STATEMENT OF FACTS

On February 1, 1992 an arrest affidavit was filed by Panama City Police Narcotic Agent Paul Pierce alleging in violation of Sec. 893.13 F.S. (1991) that Mr. Desue sold him cocaine.

Furthermore, on February 8, 1992 Policeman Agent Pierce arrested the petitioner Desue and he was taken to First Appearance before County Court Judge Glenn Hess who gave Mr. Desue a \$5,000.00 Bond. On March 2, 1992 under case no. 92-0266 ct. 1 the state filed formal charges charging Mr. Desue with the offense of Sale of Cocaine Article 1 sec. 15 Fla. Const.

Desue on March 3, 1992 posted bond and was released from Bay County Jail on the Cocaine charge. See Appendix B infra.

On April 9, 1992 County Judge Glenn Hess entered Capias arrest warrants on case no. 92-0763 warrant #168-92 for Robbery, and case no. 92-0764 warrant #169-92 for Robbery with a firearm. These illegal warrants were issued when the State Attorney office had not filed formal charges on these offenses as required under Fla. R. Crim. P. 3.131(cj). See Appendix B infra.

The State Attorney office filed a Amended charging information on April 23, 1992 captioning case no. (s) 92-0266, 92-0763, & 92-0764 to make it seem as tho their office had filed charging informations on case no(s) 92-0763 and 92-0764 to make it seem like a legal consolidation had been made under case no. 92-0266 listing the Robbery as ct. 2 and Robbery with a firearm as ct. 3, when the state had never filed a motion to consolidate to the court under Fla. R. Crim. P. 3.151 (B) because the state knew these Robbery offenses were not related to the charge of Sale of Cocaine offense. Appendix B infra.

Defense Counsel filed a motion for Severance of these cases 92-0266 92-0763, and 92-0764, which the Robbery trial was set for July 1, 1992, Robbery with a firearm for June 30, 1992, and sale of Cocaine for July 2, 1992. Appendix C infra.

Moreover, where original charging informations had not been filed on case no. 92-0763 Robbery offense, and on case no. 92-0764 Robbery

with a firearm offense. On the Robbery with a Firearm Verdict on June 30, 1992 the Court fabricated subject matter jurisdiction under case no. 92-0266. Appendix D. infra (Verdict/Trial transcripts pgs. 226-228)⁴.

Moreover on the Robbery verdict on July 1, 1992 the Court fabricated subject matter jurisdiction under case no. 92-0266. Appendix E. infra (Verdict/Trial transcripts pgs. 193-196)

Clerk Carolyn Graham entered these June 30, 1992 and July 1, 1992 verdicts into the Clerk records.

On August 5, 1992 Judge Castello did not enter a adjudication of guilt and sentence on the Robbery with a Firearm June 30, 1992 verdict under case no. 92-0266 ct. 1, and did not enter a adjudication of guilt and sentence on the Robbery July 1, 1992 verdict under case no. 92-0266 ct. 1, because she knew the Court did not have subject matter jurisdiction under nolle prosequi case no. 92-0266 ct. 1.

Judge Castello intentionally entered a written judgment of Conviction and Sentences Single Order listing the Robbery under case no. 92-0266 as ct. 2 with a 30 years habitual offender sentence, and as ct. 3 Robbery with a firearm with a imposed Life habitual offender sentence, when a multiple counts 2 and 3 verdict under case no. 92-0266 does not exist. The Court-Reporter Sherrri Lessig would not certify the sentencing transcripts to be true and correct because she knew being the Court-Reporter on June 30, 1992 the petitioner had not been tried for Robbery as ct. 2 and

4.

1. The Court Reporter Sherrri Lessig did not certify the trial transcripts on 6/30/92 to be true and correct because she knew the verdict entered under case no. 92-0266 ct. 1 was void.

Robbery with a firearm as ct. 3. See Appendix F infra (Judgment and sentences on August 5, 1992 & the Sentencing transcripts). And the trial in itself under case no. 92-0266 was conducted without court having jurisdiction. Moreover, Clerk Carolyn Graham knew two separate verdicts on 6/30/92 and 7/1/92 had been entered under case no. 92-0266 by different juries, on different offenses that she entered into record. she also knew the August 5, 1992 Judgment and sentences detention order was void and illegal under case no. 92-0266 as ct. 2 and ct. 3, when Clerk Carolyn Graham prepared the Uniform Commitment form and Commitment Checklist, she listed nolle prosequi case no. 92-0266 on them, and omits references to ct. 2 and ct. 3, because she knows a multiple counts 2 and 3 verdict does not exist See Appendix F infra (Uniform Commitment and Commitment Checklist by Clerk Carolyn Graham).

Moreover, Clerk Graham knew DOC under Sec. 944.17 (4) FS. (1991) required for her to list the conviction date on the Clerk Commitment Checklist, which she listed as 6/30/92, but she knew DOC under sec. 944.17 (5) (A) "did not require an authentication document to be produced at admissions and reception of the prisoner" Clerk Graham intentionally omits putting the July 1, 1992 verdict as a conviction date, with the listed 6/30/92 date, because DOC would have figured out that the single August 5, 1992 Judgment and sentences detention order under case no. 92-0266 as ct. 2 Robbery and as ct. 3 Robbery with a firearm was void and illegal and would have refused to accept custody of him on August 14, 1992 where two separate Judgment and sentence were required.

Rather by the Circuit Court Clerk deception (trickery). Knowing DOC admission policy is susceptible to false imprisoning a person, DOC believed and assumed by the Clerk listed conviction date on the Commitment Checklist of 6/30/92, that Mr. DeSue was convicted by a single jury on a multiple counts 2 and 3 verdict under case no. 92-0266 on 6/30/92 to "accept custody of him", which is why the Supreme Court dismissed The Department of Correction as party, for petitioner without prejudice to seek relief from this court pro se on June 16, 2016, in the order under case no. 5C16-720. See Appendix B infra

On February 14, 2015 the petitioner moved to have Judge James Fensom disqualified from case no. 92-0266 which he did not rule on the motion for disqualification within 30 days its considered granted.

GROUND ONE

BAY COUNTY CIRCUIT COURT DID NOT ADJUDICATE PETITIONER GUILTY AND SENTENCE HIM ON THE JUNE 30, 1992 CASE NO. 92-0266 CT. 1 JURY VERDICT, AND ON THE JULY 1, 1992 CASE NO. 92-0266 CT. 1 JURY VERDICT FOR ROBBERY BECAUSE THESE SEPARATE VERDICTS ARE VOID WHERE THEY WERE ENTERED WITHOUT THE COURT HAVING SUBJECT MATTER JURISDICTION TO TRIED PETITIONER, SO THE COURT FABRICATED THE CERTIFIED AUGUST 5, 1992 JUDGMENT OF CONVICTION AND SENTENCES AS CT. 2 ROBBERY AND AS CT. 3 ROBBERY WITH A FIREARM UNDER CASE NO. 92-0266 TO FALSE IMPRISONMENT HIM BY COMMITMENT PAPERS DECEPTION TO MAKE DOC BELIEVE IT WAS LEGAL AND ENFORCEABLE TO ACCEPT CUSTODY OF HIM FROM BAY COUNTY DEPUTY SHERIFF JAMES NELSON.

The Supreme Court is giving this court the opportunity to correct its own manifest injustice by "false imprisoning Mr. DeSue in the Department of Corrections" from the Supreme Court's June 16, 2016 order. See Appendix A. infra. In *Jamason v. State*, 447 So. 2d 892, 895 (Fla. 4th DCA 1983). The Court held, approved by The Supreme Court, 455 So. 2d 380 (Fla. 1984),

If it appears to the court of competent jurisdiction that a man is being illegally restrained of his liberty it is the responsibility of the court to brush aside formal technicalities and issue such appropriate order as will do just justice.

Bay County Circuit Court entered a void and illegal judgment of conviction and sentences certified upon The Department of Corrections by the clerk to false imprisonment the petitioner that "violates due process". See *Stang v. State*, 24 So. 3d 566, 569 (Fla. 2d DCA 2009). The Court held,

As a practical matter [i]f the challenged detention order [is] determined to be a violation of the petitioner's constitutional guarantee of due process then the order would be illegal, and not merely defective, irregular, or insufficient in form or substance.

The State Attorney office of Bay County of Mr. Jim Appleman on March 2, 1992 under case no. 92-0266 ct 1 case jurisdiction did formally charge Mr. DeSue for a violation of sec. 893.13 F.S. (1991) with the offense of Sale of Cocaine, which the State amended adding two additional none related offenses on April 23, 1992 as ct. 2 Robbery and as ct. 3 Robbery with a Firearm.

These offenses were severed returning the Cocaine offense to its original charging case jurisdiction under case no. 92-0266 ct 1, where the state had not filed formal charges on the Capias Warrants these offenses of Robbery with a Firearm returned to the clerk file no. 92-0764, and the Robbery returned to clerk of court case file no. 92-0763, which there was no jurisdiction, even the First Appearance Judge on April 12, 1992 could not circle on the form that he found probable cause to detain Mr. DeSue. See Appendix B. infra (April 12, 1992 First Appearance sheet). Circuit Court jurisdiction on these Robbery and Robbery with a Firearm offenses had not been invoked under Article 1 sec. 15 Florida Constitution to tried Mr. DeSue.

The only jurisdiction this Circuit Court had to tried the petitioner under case no. 92-0266 ct. 1 was for the offense of Sale of Cocaine that the State filed a Nolle prosequi order on July 2, 1992. See Appendix A. infra (July 2, 1992 Nolle prosequi order).

There was Absolutely no jurisdiction for this court to tried the Robbery with a Firearm under case no. 92-0266 ct. 1 and the unrelated Robbery under case no. 92-0266 ct. 1 that appears on the June 30, 1992 Robbery with a Firearm verdict and on the July 1, 1992 Robbery verdict is the reason why Bay County Court did not enter ambiguous Judgment of convictions under case no. 92-0266 ct 1 for the Robbery and Robbery with a Firearm, and the Court on August 5, 1992 did not enter adjudication of guilt and sentence orders on these verdicts under case no. 92-0266 ct 1, because it would be null and void on each verdict. See *Waggy v. State*, 935 So. 2d 571, 573 (Fla. 1st DCA 2008) (Lack of subject matter

jurisdiction can be raised at anytime); See also *T.D. v. K.D.* 747 So.2d 456, 457 n 2 (Fla. 4th DCA 1999); *Marino San Pablo Place Spe LLC v. VCP - San Pablo Ltd*, 92- So.3d 320, 321 (Fla. 1st DCA 2012); See Appendix B. *infra* (Arrest Affidavit for Sale of Cocaine, First Appearance sheet and March 2 1992 original charging information)

The April 23, 1992 Amended information was void and illegal, because the State never moved the court by filing a motion to consolidate these cases under *FLA. R. CRIM. P. 3.151 (B)*, because these Robbery and Robbery with a firearm offenses were not related to the original charge of Sale of Cocaine. Nevertheless, the state never filed two or more charging informations on the Robbery under file no. 92-0763, and Robbery with a firearm under clerk file no. 92-0764. See Appendix B. *infra* (Arrest Affidavits on April 8, 1992, Capias warrants and April 12, 1992 First Appearance sheets).

The Court-Reporter Sherri Lessig knew these proceedings on 6/30/92 Robbery with a firearm trial and August 5, 1992 Sentencing of the petitioner DeJue "was without the court having jurisdiction", so Mrs Lessig would not certify her transcripts to be true and correct, because she knew they were not. See Appendix D & F. (trial transcripts pgs. 226-228 Sentencing pgs 11-14) *infra*.

The Court on August 5, 1992 fabricated the Judgment and Sentences under case no. 92-0266 as ct. 2 Robbery with a 30 years prison sentence and as ct 2 Robbery with a firearm with a life in prison sentence, when the jury under case no. 92-0266 as ct. 2 and as ct. 3 did not enter a multiple counts single verdict to support the entry of the August 5, 1992 Judgment and sentences that shall comport to the conviction verdict. See *Owens v. State*, 76 So.3d 1160 (Fla. 3rd DCA 2012). See Appendix F. *infra*

The Court and Clerk Carolyn Graham knew the State Attorney office on July 2, 1992 had nolle prosequi case no. 92-0266 but by a void Judgment and Sentences entered order on August 5, 1992, and deception in the Commitment papers by Clerk Carolyn Graham, which she used nolle process case no. 92-0266 on the "Uniform Commitment Form and Commitment Checklist, and put 6/30/92 as conviction date omitting 7/1/92 as a conviction date made DOC during admission on August 14, 1992

believe on 6/30/92 that a single jury tried and convicted petitioner on these offenses by a multiple count 2 and 3 verdict not reflected on the Judgment and Sentences under case no. 92-0266 ct. 3 Robbery with a firearm, with a life sentence and Robbery as ct. 2 with a 30 years prison sentence that Clerk Carolyn Graham by record fraud certified this document to be true and correct caused DOC to false imprisonment him under Sec. 944.17(5)(A) F.S. (1991); State v. Burton, 314 So.2d 136, 138 (Fla. 1975); See Fla. R. Civ. P. 1.540.

This manifest injustice shall be corrected by this court that committed this act. See Lago v. State, 975 So.2d 613, 614 (Fla. 3rd DCA 2008); Santana, 12 So. 3d 843, 848; Henry, 62 So. 3d 1122; Harris 394 U.S. At 291. A fraudulent Judgment can be vacated by the court at any time under Burton, SUPRA.

CONCLUSION

The petitioner prays for this court to take immediate action to correct Mr. Michael DeSue's false imprisonment. The petitioner promised the Supreme Court at the discharge hearing he will waive his rights to civil suit.

CERTIFICATE AND OATH

Under The Penalties of Perjury I certify, pursuant to 3.850(8) Fla. R. Crim. P., that I: a) have read the foregoing motion or that it has been read to me and the facts stated in it are true and correct; b) understand English and the motion contents; the motion is filed in good faith and with a reasonable belief that it is timely, has potential merit, and does not duplicate previous motions that have been disposed of by the court; or if I do not understand English the contents were read to me by N/A whose address is listed below and the certification of an accurate and complete translation is shown below

CERTIFICATION OF AN ACCURATE AND COMPLETE TRANSLATION

I CERTIFY that a complete and accurate translation of this motion was provided to the defendant in this case on this 22 day of June 2016.

Michael Charles DeSue
MICHAEL CHARLES DESUE # 72978

CERTIFICATE OF SERVICE

I HEREBY DO CERTIFY that this foregoing writ of Habeas Corpus with Appendixes A-F has been placed in the hands of a Department of Corrections prison official to be mailed to, Clerk of Court Bill Kinsaul, P.O. Box 2269 Panama City, Florida 32302, and to General Counsel of The Department of Corrections. Mr. Kenneth Scott Stealy, 501 South Calhoun Street, Tallahassee, Florida 32399-2500 on this day ~~22nd~~ JUNE, 2016

~~Michael Charles Desue~~ ^{DC#} 729878
MICHAEL CHARLES DESUE ^{DC#} 729878
FRANKLIN CORRECTIONAL INSTITUTION
1760 Hwy 67 North
CARRABELLE, Florida 32322

PROVIDED TO FRANKLIN CI
FOR MAILING ON

6/22/16

INMATE INITIALS MD

10.

EXHIBITS INFRA (ATTACHED)

Appendix A. infra Supreme Court order on case no SC16-720 & Bay County Stat Attorney write prosecu order on case no. 92-0260

Appendix B. infra Cocaine Arrest Aff. / First Appearance sheet, March 2, 1992 original Cnrg. Info, April 2, 1992 Probate Cause Aff. case no. 92-0764, April 9, 1992 CAPIAS WARRANT, case no. 92-0763 Probable Cause Aff. April 9, 1992 Capias warrant; April 23, 1992 Amended Information

Appendix C. infra Motion for Severance case no(s) 92-0266; file no(s) 92-0263; 92-0764

Appendix D. infra Vol II trial transcripts portions pgs 226-228 Court-Reporter Sherril Lessig & Jury is 6/30/92 verdict foreperson Bonnie Blue, Clerk Carolyn Graham

Appendix E. infra July 1, 1992 trial transcripts pgs 193-197 Court-Reporter Marie Bazzel & Jury is 7/1/92 verdict foreperson Charles Spencer Clerk Carolyn Graham

Appendix F. infra August 5, 1992 sentencing transcripts Court-Reporter Sherril Lessig, Clerk Carolyn Graham, & written Judgment and sentences August 5, 1992, Uniform Commitment Form & Commitment Checklist under sec. 944.17 F.S. prepared by Clerk Carolyn Graham

Appendix A

To: Clerk of Court Bill Kinsaul
300 East 4th Street
P.O. Box 2269
Panama City, FL 32402-2269

Reference: Docket Request of
Acknowledgment of
Filing the 3,850 Habeas
Corpus with the Court

case no 92-0266
Supreme Court case no: SC16-720

Clerk Kinsaul

Your office was sent an order from the Florida Supreme Court Justices
issued June 16, 2016, where they authorized Mr. DeSue to seek relief from
this circuit court. Enclosed is Mr. DeSue's 3,850 writ of Habeas Corpus with
Appendixes A-F. Upon receipt and clocking this instrument in the Records,
send me an immediate inquiry (case docket sheet) or letter of acknowledgment
of filing.

Thank you Honorable Clerk of the Court.

FILED

2016 JUN 27 12:00

BILL KINSAUL
CLERK OF COURT
BAY COUNTY, FLORIDA

^{DC#}
~~Michael DeSue~~ 729878
^{DC#}
Michael DeSue 729878
FRANKLIN CORRECTIONAL
INSTITUTION
1760 Hwy 67 North
Carrabelle, Florida 32322

PROVIDED TO FRANKLIN CI
FOR MAILING ON

6/22/16KG

INMATE INITIALS MD

Appendix - A

FILED
IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR BAY COUNTY, FLORIDA

2007 APR 25 P 3:39

STATE OF FLORIDA,

Plaintiff,

HAROLD BAZZEL
CLERK OF CIRCUIT COURT
BAY COUNTY, FLORIDA

v.

Case No.: 92-0266

MICHAEL CHARLES DESUE,

Defendant.

ORDER BARRING FURTHER PRO SE FILINGS IN THIS CASE

THIS MATTER is before the Court on its Order to Show Cause, dated March 27, 2007, in which the Court directed the Defendant to show cause within twenty (20) days as to why he should not be barred from submitting further pro se pleadings in this case. Defendant has continuously challenged his habitual felony offender (HFO) sentence since his 1992 sentencing. The Court's Order to Show Cause was issued after Defendant filed yet another pro se motion challenging his HFO sentence on yet another ground that had been raised in a prior motion, and after the Court had previously warned Defendant against filing successive or frivolous motions challenging his HFO sentence.

As the Court noted in its previous orders, both this Court and the First District Court of Appeal have repeatedly evaluated Defendant's claims that his HFO sentence is illegal and have repeatedly found that Defendant was properly habitualized. Any citizen, including a citizen attacking his or her conviction, abuses the right to pro se access by filing repetitious and frivolous pleadings, thereby diminishing the ability of the courts to devote their finite resources to the consideration of legitimate claims. *State v. Spencer*, 751 So.2d 47 (Fla. 1999). In its Order to Show Cause, this Court listed the numerous motions Defendant has filed in this case challenging his HFO sentence which the Court had found to be successive or without merit, the orders denying those motions, and the First DCA orders summarily affirming. (See attached Order to Show Cause and attachments).

Defendant's response to the Order to Show Cause does not provide good cause as to why he should not be barred from submitting any further pro se pleadings in this case. Defendant's complaint that the undersigned judge and the prior judge assigned to the case should have granted his request to recuse themselves from the case is without merit. The fact that a judge has ruled adversely to a party in the past does not constitute a legally sufficient ground for a motion to disqualify. See *Thompson v. State*, 759 So.2d 650, 659 (Fla. 2000). The remainder of Defendant's response fails to convince the Court that prohibiting Defendant from filing further pro se pleadings is unwarranted in this case.

Therefore, it is:

ORDERED AND ADJUDGED that that the Clerk's Office is directed to refuse to accept for filing in this Court any further pleadings, motions, petitions, or other papers relating to case number 92-0266 unless they are filed by a member in good standing of The Florida Bar.

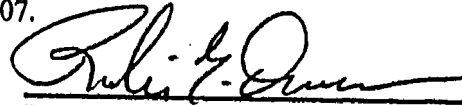
DONE AND ORDERED in chambers, Bay County, Florida, this 24 day of April 2007.



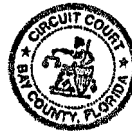
**HONORABLE MICHAEL C. OVERSTREET,
CIRCUIT JUDGE**

Attachment: Order to Show Cause, with attachments

I HEREBY CERTIFY that a true and exact copy of the foregoing has been provided by U.S. Mail to Michael Charles DeSue, DC# 729878, Calhoun C.I., 19562 SE Institution Drive, Blountstown, FL 32424-5156, this 25 day of April 2007.



Robin Owens, Judicial Assistant



A CERTIFIED TRUE COPY
BILL KINSAUL CLERK
OF THE CIRCUIT COURT

By Jim Reed
Deputy Clerk

Appendix B

5

STATE OF FLORIDA
UNIFORM COMMITMENT TO CUSTODY
OF DEPARTMENT OF CORRECTIONS

The Circuit Court of Bay County, in the Spring Term, 1992 in
the case of

State of Florida CASE NO. 92-266 (H)

vs

MICHAEL CHARLES DESUE
Defendant

B 729878

RECEIVED
AUG 11 1992

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA, TO THE
SHERIFF OF SAID COUNTY AND THE DEPARTMENT OF CORRECTIONS OF SAID
STATE, GREETING:

The above named defendant having been duly charged with the
offense specified herein in the above styled Court, and he having
been duly convicted and adjudged guilty of and sentenced for said
offense by said Court, as appears from the attached certified
copies of Indictment/Information, Judgment and Sentence, and
Felony Disposition and Sentence Data form which are hereby made
parts hereof;

Now therefore, this is to command you, the said Sheriff, to
take and keep and, within a reasonable time after receiving this
commitment, safely deliver the said defendant; together with any
pertinent Investigation Report prepared in this case, into the
custody of the Department of Corrections, by and through your
Secretary, Regional Directors, Superintendents, and other
officials, to keep and safely imprison the said defendant for the
term of said sentence in the institution in the state
correctional system to which you, the said Department of
Corrections, may cause the said defendant to be conveyed or
thereafter transferred. And these presents shall be your
authority for the same. Herein fail not.

WITNESS the Honorable Dedee S. Costello,
Judge of said Court, as also Harold
Bazzel, Clerk, and the Seal thereof,
this 5th day of August, 1992.

HAROLD BAZZEL, CLERK

By: Carolyn A. [Signature]
Deputy Clerk

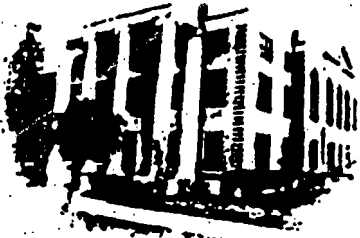
Page 1 of ___ Pages

A CERTIFIED TRUE COPY
HAROLD BAZZEL, CLERK
OF THE CIRCUIT COURT
By: [Signature]
Deputy Clerk

Appendix - B

HAROLD BAZZEL

CLERK OF CIRCUIT COURT, BAY COUNTY



P. O. BOX 2269
PANAMA CITY, FLORIDA 32402
(904) 763-9061

EFFECTIVE SEPTEMBER 1, 1990 PURSUANT TO F.S. 944.17

COMMITMENT CHECKLIST

NAME: MICHAEL CHARLES DESUE CASE NO. 92-266

XXX Uniform commitment, judgement, and sentence as well as a certified copy of the indictment or information.

XXX Copy of probable cause affidavit (complaint), or
A probable cause affidavit was not filed.

~~XXXX~~ Copy of sentencing guideline scoresheet, or

KXX Order finding defendant Habitual Offender.

XX Copy of restitution order, or (check one of the following):

Restitution not applicable;

Copy of court's statement as to why restitution was not ordered.

Name and address of victim(s), or

Victim's name and address not available per state attorneys office.

DATE OF PLEA OR CONVICTION 06-30-92

DATE OF SENTENCE 08-05-92

DATE OF VOP PLEA _____

DATE OF VOP SENTENCE _____

DATE OF VOCC PLEA _____

DATE OF VOCC SENTENCE _____

Appendix - B

COMMITMENT CHECKLIST

TO: RECEIVING OFFICER
DEPARTMENT OF CORRECTIONS

REF: NAME: MICHAEL CHARLES DESUE CASE No. 92-266

PURSUANT TO F.S.S. 944.17, THE FOLLOWING DOCUMENTS/REPORTS ARE SUBMITTED ON ABOVE NAMED OFFENDER:

UNIFORM COMMITMENT, JUDGEMENT, AND SENTENCE AS WELL AS A CERTIFIED COPY OF THE INDICTMENT OR INFORMATION.

SHERIFF'S CERTIFICATE AS DESCRIBED IN F.S.S. 921.161

COPY OF PROBABLE CAUSE AFFIDAVIT, OR

A PROBABLE CAUSE AFFIDAVIT WAS NOT FILED.

COPY OF SENTENCING GUIDELINES SCORESHEET

COPY OF RESTITUTION ORDER, OR (CHECK ONE OF THE FOLLOWING):

RESTITUTION NOT APPLICABLE;

COPY OF COURT'S STATEMENT AS TO WHY RESTITUTION WAS NOT ORDERED.

NAME AND ADDRESS OF VICTIM(S), OR

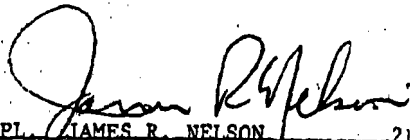
VICTIM(S) NAME AND ADDRESS NOT AVAILABLE PER STATE ATTORNEY'S OFFICE.

PRINTOUT OF CURRENT FCIC/NCIC CRIMINAL HISTORY, OR

PRINTOUT PROVIDED WITH OTHER COMMITMENT DELIVERED WITH OFFENDER THIS DATE.

PRESENTENCE INVESTIGATION REPORT, OR

PRESENTENCE INVESTIGATION REPORT NOT MADE AVAILABLE.

BY: 
CPL. JAMES R. NELSON 212
DEPUTY SHERIFF OR AGENT BADGE/ID

RAY
COUNTY

August 14, 1992
DATE

Appendix
1

- COMMUNITY CONTROL VIOLATOR
 - PROBATION VIOLATOR
- (Check if Applicable)

IN THE CIRCUIT COURT, FOURTEENTH **B**
 JUDICIAL CIRCUIT, IN AND FOR
BAY COUNTY, FLORIDA

STATE OF FLORIDA

- VS -

DIVISION H

MICHAEL CHARLES DESUE
 Defendant

CASE NUMBER 92-266

JUDGMENT

FILED
 AUG 5 1992
 CLERK OF COURT
 BAY COUNTY
 FLORIDA

The Defendant, MICHAEL CHARLES DESUE, being personally before this Court
 represented by Paul G. Komarek, his attorney of record, and having:

(Check Applicable Provision)

- Been tried and found guilty of the following crime(s)
- Entered a plea of guilty to the following crime(s)
- Entered a plea of nolo contendere to the following crime(s)

COUNT	CRIME	OFFENSE STATUTE NUMBER(S)	DEGREE OF CRIME	CASE NUMBER
<u>III</u>	<u>Robbery With A Firearm</u>	<u>812.13(2)(a)</u>	<u>1FPBL</u>	<u>92-266</u>
<u>II</u>	<u>Robbery</u>	<u>812.13(2)(c)</u>	<u>2F</u>	<u>92-266</u>

and no cause having been shown why the Defendant should not be adjudicated guilty, IT IS ORDERED THAT the Defendant is hereby ADJUDICATED GUILTY of the above crime(s).

The Defendant is hereby ordered to pay the sum of twenty dollars (\$20.00) pursuant to F.S. 960.20 (Crimes Compensation Trust Fund). The Defendant is further ordered to pay the sum of three dollars (\$3.00) as a court cost pursuant to F.S. 943.25 (4). PLUS \$200.00 PURSUANT TO F.S. 27.3455.

(Check if Applicable)

- The Defendant is ordered to pay an additional sum of two dollars (\$2.00) pursuant to F.S. 943.25 (8). (This provision is optional; not applicable unless checked).
- The Defendant is further ordered to pay a fine in the sum of \$ _____ Pursuant to F.S. 775.0835. (This provision refers to the optional fine for the Crimes Compensation Trust Fund, and is not applicable unless checked and completed. Fines imposed as part of a sentence pursuant to F.S. 775.083 are to be recorded on the Sentence page(s).)
- The Court hereby imposes additional court cost in the sum of \$ _____
- The Court has determined the defendant to be indigent and waived costs described in this section as provided in Chapter 27.3455.

Imposition of Sentence Stayed and Withheld (Check if Applicable)

The Court hereby stays and withholds the imposition of sentence as to count(s) _____ and places the Defendant on Probation/Community Control for a period of _____ under the supervision of the Department of Corrections (conditions of probation/community control set forth in separate order).

Sentence Deferred Until Later Date (Check if Applicable)

The Court hereby defers imposition of sentence until _____ (date)

The Defendant in Open Court was advised of his right to appeal from this judgment by filing notice of appeal with the Clerk of Court within thirty days following the date sentence is imposed or probation is ordered pursuant to this adjudication. The Defendant was also advised to his right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

FINGERPRINTS OF DEFENDANT

Fingerprints taken by:

[Signature] #622 BCSO
Name and Title

DONE AND ORDERED in Open Court at Panama City, Bay County, Florida, this 5 TH day of AUGUST, AD., 1992. I HEREBY CERTIFY that the above and foregoing fingerprints are the fingerprints of the Defendant, MICHAEL CHARLES DESUE and that they were placed thereon by said Defendant in my presence in Open Court this date.

[Signature]
CIRCUIT JUDGE
Dedee S. Costello

Defendant MICHAEL CHARLES DESUE
Case Number 92-266

SENTENCE

(As to Count II)

The Defendant, being personally before this Court, accompanied by his attorney, Paul G. Komarek, and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he should not be sentenced as provided by law, and no cause being shown,

- and the Court having on _____ deferred imposition of sentence until this date. (date)
- and the Court having placed the Defendant on probation/community control and having subsequently revoked the Defendant's probation/community control by separate order entered herein,

(Check EITHER provision if applicable)

IT IS THE SENTENCE OF THE LAW that;

- The Defendant pay a fine of \$ _____, plus \$ _____ as the 5% surcharge required by F.S. 960.25.
- ~~XXXX~~ The Defendant is hereby committed to the custody of the Department of Corrections
- The Defendant is hereby committed to the custody of the Sheriff* of _____ County, Florida (Name of local corrections authority to be inserted at printing, if other than Sheriff)
- To be Imprisoned (check one; unmarked sections are inapplicable)
 - For a term of Natural Life
 - For a term of 30 yrs
 - For an indeterminate period of 6 months to _____ years.

APR 10 1992
CLERK OF COURT
COUNTY OF FLORIDA

If "split" sentence complete EITHER of these two paragraphs

- Followed by a period of NO on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.
- However, after serving a period of _____ imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed in this section:

- Firearm - 3 year mandatory minimum**
 - It is further ordered that the 3 year minimum provisions of F.S. 775.087 (2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.
- Drug Trafficking mandatory minimum**
 - It is further ordered that the _____ year minimum provisions of F.S. 893.135(1)(X) are hereby imposed for the sentence specified in this count.
- Retention of Jurisdiction**
 - The Court pursuant to F.S. 947.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.
- Habitual Offender**
 - The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084 (4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.
- Jail Credit**
 - ~~XXXX~~ It is further ordered that the Defendant shall be allowed a total of 120 days credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):
- Consecutive/Concurrent**
 - It is further ordered that the sentence imposed for this count shall run
 - consecutive to concurrent with (check one) the sentence set forth in count _____ above.

Defendant MICHAEL CHARLES DESUE
Case Number 92-266

SENTENCE

(As to Count III)

The Defendant, being personally before this Court, accompanied by his attorney, Paul G. Komarek, and having been adjudicated guilty herein, and the Court having given the Defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why he should not be sentenced as provided by law; and no cause being shown,

- and the Court having on _____ deferred imposition of sentence until this date. (date)
 - and the Court having placed the Defendant on probation/community control and having subsequently revoked the Defendant's probation/community control by separate order entered herein,
- (Check EITHER provision if applicable)

IT IS THE SENTENCE OF THE LAW that;

The Defendant pay a fine of \$ _____, plus \$ _____ as the 5% surcharge required by F.S. 960.25.

~~XXXX~~ The Defendant is hereby committed to the custody of the Department of Corrections

The Defendant is hereby committed to the custody of the Sheriff* of _____ County, Florida (Name of local corrections authority to be inserted at printing, if other than Sheriff)

To be Imprisoned (check one; unmarked sections are inapplicable)

- For a term of Natural Life
- For a term of Life
- For an indeterminate period of 6 months to _____ years.

Followed by a period of NO on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

If "split" sentence complete EITHER of these two paragraphs

However, after serving a period of _____ imprisonment in _____ the balance of such sentence shall be suspended and the Defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation set forth in a separate order entered herein.

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed in this section:

Firearm - 3 year mandatory minimum

It is further ordered that the 3 year minimum provisions of F.S. 775.087 (2) are hereby imposed for the sentence specified in this count, as the Defendant possessed a firearm.

Drug Trafficking mandatory minimum

It is further ordered that the _____ year minimum provisions of F.S. 893.135(1)(X) are hereby imposed for the sentence specified in this count.

Retention of Jurisdiction

The Court pursuant to F.S. 947.16(3) retains jurisdiction over the defendant for review of any Parole Commission release order for the period of _____. The requisite findings by the Court are set forth in a separate order or stated on the record in open court.

Habitual Offender

The Defendant is adjudged a habitual offender and has been sentenced to an extended term in this sentence in accordance with the provisions of F.S. 775.084 (4)(a). The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Jail Credit

~~XXXX~~ It is further ordered that the Defendant shall be allowed a total of 120 days credit for such time as he has been incarcerated prior to imposition of this sentence. Such credit reflects the following periods of incarceration (optional):

Consecutive/Concurrent

It is further ordered that the sentence imposed for this count shall run consecutive to concurrent with (check one) the sentence set forth in count _____ above.

Defendant MICHAEL CHARLES DESUE

Case Number 92-266

*Consecutive/Concurrent
(As to other convictions)*

It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run

consecutive to concurrent with (check one) the following:

Any active sentence being served.

Specific sentences: _____

In the event the above sentence is to the Department of Corrections, the Sheriff of Bay County, Florida is hereby ordered and directed to deliver the Defendant to the Department of Corrections together with a copy of this Judgment and Sentence.

The Defendant in Open Court was advised of his right to appeal from this sentence by filing notice of appeal within thirty days from this date with the Clerk of this Court, and the Defendant's right to the assistance of counsel in taking said appeal at the expense of the State upon showing of indigency.

In imposing the above sentence, the Court further recommends/orders _____

DONE AND ORDERED in Open Court at Panama City, Bay County, Florida, this 05th day of AUGUST A.D., 19 92

Dedee S. Costello

CIRCUIT JUDGE
Dedee S. Costello

A CERTIFIED TRUE COPY
HAROLD BAZZEL, CLERK
OF THE CIRCUIT COURT

By *Harold Bazzel*
Deputy Clerk

Page _____ of _____ Pages

APPENDIX-B

FILED

92 DEC 28 PM 1:53

JUDITH S. WILSON
CLERK, U.S. DISTRICT COURT, PANAMA CITY
FIRST DISTRICT

IN THE CIRCUIT COURT, FOURTEENTH
JUDICIAL CIRCUIT, IN AND FOR BAY
COUNTY, FLORIDA.

MICHAEL DESUE,
Defendant/Appellant,

vs.

CASE NO.: 92-266H

STATE OF FLORIDA,
Plaintiff/Appellee.

FILED
Dec 9 2 54 PM '92
HAROLD S. SWEET
CLERK, CIRCUIT COURT
BAY COUNTY, FLORIDA

Whereupon, the following proceedings came on to be heard before the Hon. Dedee S. Costello, Circuit Court Judge, at the Bay County Courthouse, Panama City, Florida, commencing on the 5th day of August, 1992.

APPEARANCES:
FOR THE STATE:

Hon. Alton Paulk, Assistant
State Attorney, P. O. Box 1040,
Panama City, Fl 32402.

FOR THE DEFENDANT:

Hon. Paul Komarek, Attorney at
Law, P. O. Box 2522, Panama
City, Fl 32402.

REPORTED BY:

SHERRI R. LESSIG
OFFICIAL COURT REPORTER

INDEX

<u>PROCEEDINGS:</u>	<u>PAGE:</u>
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Certificate of Court Reporter	14

PROCEEDINGS

1
2 August 5, 1992

3 THE COURT: Now, Mr. Komarek, where are we on
4 this matter? We have some pending motions to take care
5 of before we proceed to sentencing?

6 MR. KOMAREK: Judge, we have just, you may
7 recall, that on my client's behalf I moved to disqualify
8 yourself and you previously denied that motion and I
9 advised on more than one occasion--but I'm doing it on
10 the record--he has discharged me and that was--the
11 sentencing has been, I think this is the third episode of
12 the sentencing. I don't--I wasn't there at the last
13 episode and my partner stood in for me but I think that's
14 already been taken care of for the record.

15 THE COURT: All right.

16 MR. KOMAREK: I know my client wants to appeal
17 and has filed it and I think that was premature. We had
18 covered the Guideline Scoresheet I think the last time
19 and the Defense indicated that was correct as far as
20 priors. My client has had an opportunity to review that.

21 Where I think that leaves us is you're ready to
22 sentence him and the State's ready to move to attempt to
23 habitualize him and I'm prepared to cover the motions for
24 rehearing on the two trials that we have had.

25 THE COURT: Motion for new trial, you mean?

1 THE COURT: State have any other comments?

2 MR. PAULK: No, Your Honor.

3 THE COURT: Then, Mr. DeSue, in Case Number 92-
4 266, you're adjudicated guilty of robbery. You are
5 committed to the custody of the Department of Corrections
6 to serve a term of 30 years as a habitual offender.

7 Let me make sure I have the jail time credit.
8 Is 84 days right?

9 THE DEFENDANT: I have more.

10 THE COURT: I'm sure it's more than that.

11 MR. KOMAREK: I figured it, Judge, and I won't
12 swear to this on a stack of bibles but I refigured it and
13 I think it's 120 days until today's date.

14 THE COURT: Sounds closer. That's from the
15 2nd, I mean, excuse me...

16 MR. KOMAREK: From 4-8-92.

17 THE COURT: 2-8, wasn't it? Was it February or
18 April you arrested him?

19 MR. PAULK: It's on the Presentence
20 Investigation.

21 (Off record discussion)

22 THE COURT: State have any objection to 120?

23 MR. PAULK: No.

24 THE COURT: Now, is there restitution? Make
25 sure we get that straight. \$80 cash on that case. I

1 think they were both \$80, weren't they?

2 MR. KOMAREK: I believe so, Judge.

3 THE COURT: Allegedly taken. Do you have any
4 objection to that amount?

5 MR. KOMAREK: No. I think that's what the
6 testimony was.

7 THE COURT: Do you have any objection to the
8 judgment for restitution?

9 MR. PAULK: I really don't think there's any
10 objection that he could make because it's mandatory by
11 statute you enter an order of restitution.

12 THE COURT: I will ask him anyway.

13 MR. KOMAREK: The testimony that I heard, as I
14 recall, is that it was \$80.

15 THE COURT: Okay, I'm going to enter a judgment
16 for \$80 on behalf--on Count II on, for Jason Benard which
17 is just a civil judgment. It will not effect your gain
18 time or anything of that sort.

19 Count III, robbery with a firearm, you're
20 adjudicated guilty. Committed to the custody of
21 Department of Corrections to serve a term of life
22 imprisonment with 120 days credit against that sentence.
23 That sentence would be concurrent with the sentence just
24 imposed upon you. \$80 restitution in that case involving
25 Robert Bozeman.

1 You have a right to appeal this judgment and
2 sentence. You must do so by filing your notice within 30
3 days of today with the Clerk's Office. If you want a
4 lawyer and can't afford to hire one, a lawyer will be
5 appointed for you at no charge. You will need to be
6 fingerprinted.

7 THE DEFENDANT: I want to appeal it right now.

8 (Proceedings concluded at this time.)

1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA)

3 COUNTY OF BAY)

4 I, Sherri R. Lessig, Official Court Reporter, at
5 Panama City, Florida, Fourteenth Judicial Circuit, do
6 hereby certify as follows:

7 THAT I correctly reported in machine shorthand the
8 foregoing proceedings at the time and place stated in the
9 caption hereof;

10 THAT I later reduced my machine shorthand notes to
11 typewriting, and that the foregoing pages numbered
12 ___through___, both inclusive contain a full, true and
13 correct transcript of the proceedings taken on said
14 occasion;

15 THAT I am neither of kin nor of counsel to any
16 parties involved in this matter nor in any manner
17 interested in the result thereof;

18 THIS _____ day of _____, 1992.
19

20 _____
21 SHERRI R. LESSIG

22 OFFICIAL COURT REPORTER

B

1743919121

17th Street and Fairy Avenue

Desue, Michael

1802 Flower Avenue, Panama City, Florida 32405

Unknown

Unknown

Unknown

Panama City, Fl.

U.S.

Robbery

1

8112113

On the 20th day of January "92" 2222 "x" [redacted] reported that a black male shoved a sharp object in his stomach and demanded money. Mr. [redacted] handed the subject \$80.00 in cash. The defendant was given a ride from the Panama City Mall to 17th Street and Fairy Avenue in Panama City, Bay County, Florida where the incident occurred. Through further investigation the defendant was developed as a suspect. On 04/08/92 Mr. [redacted] positively identified the defendant from a photographic line up as being the subject that robbed him.

POSTED TN

NOTICE TO APPEAR

I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED TO ANSWER THE OFFENSE CHARGED OR TO PAY THE FINE SUBSCRIBED. I UNDERSTAND THAT SHOULD I FAIL TO FULLY FAIR TO APPEAR BEFORE THE COURT AS REQUIRED BY THIS NOTICE TO APPEAR, THAT I MAY BE HELD IN CONTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED.

NOTARY PUBLIC, State of Florida, at Large

My Commission Expires December 26, 1992

Paul Slay #88

Harold Bazzel, Clerk of the Circuit Court

WHITE - COURT COPY CANARY - STATE ATTORNEY COPY PINK - ARRESTING AGENCY COPY BLUE - DEPT. OF CORRECTIONS COPY

Document in IRIS (Inmate Records Imaging System)

Deputy Clerk

STATE OF FLORIDA,
Plaintiff,

AMENDED INFORMATION CHARGING:
COUNT I: SALE OF CONTROLLED SUBSTANCE
WITHIN 200' OF PUBLIC HOUSING
COUNT II: ROBBERY
COUNT III: ROBBERY WITH A FIREARM

vs.

MICHAEL DESUE,
Defendant.

FLORIDA STATUTE: 893.13; 812.13; 775.087
CASE NO. 92-0266H; 92-0763H; 92-0764H

PAMELA J. SMOAK, Assistant State Attorney for the Fourteenth
Judicial Circuit of the State of Florida, prosecuting in the name of and by
the authority of the State of Florida, in the County of Bay, with,
informs the Court that

POSTED

COUNT I

MICHAEL DESUE, on or about the 1st day of February, 1992, in the
County and State aforesaid, did unlawfully sell or deliver, or
possess with intent to sell or deliver a controlled substance,
to-wit: cocaine, within 200' of a public housing facility,
located at 1722 West 17th Street, Building D, Panama City, FL, in
violation of Section 893.13, Florida Statutes.

COUNT II

MICHAEL DESUE, on or about the 20th day of January, 1992, in the
County and State aforesaid, did unlawfully by force, violence,
assault or putting in fear, take certain property, to-wit: cash,
the property of [REDACTED] as owner or custodian, in violation
of Section 812.13, Florida Statutes.

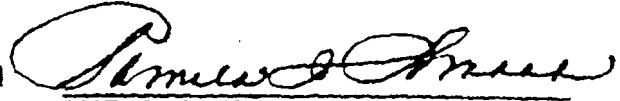
COUNT III

MICHAEL DESUE, on or about the 2nd day of April, 1992, in the
County and State aforesaid, did unlawfully by force, violence,
assault or putting in fear, take certain property, to-wit: cash,
the property of [REDACTED] as owner or custodian, from the
person or custody of [REDACTED] and in the course of
committing said Robbery, carried a firearm, in violation of
Sections 812.13 and 775.087, Florida Statutes.

PAMELA J. SMOAK, Assistant State Attorney for the Fourteenth
Judicial Circuit of Florida, under oath, states that the allegations set forth

in this INFORMATION are based on facts that have been sworn to as true, under oath, by material witness(es), and which, if true, would constitute the offense(s) therein charged, and that this INFORMATION is filed in good faith.

The foregoing instrument was acknowledged before me by Pamela Smoak, who is personally known to me, and who did take an oath this 23rd day of April, 1992.



PAMELA J. SMOAK
Assistant State Attorney
P.O. Box 1040
Panama City, FL 32402
(904)872-4473
FL Bar #: 559709

Barbara G. Chase
BARBARA G. CHASE, Notary Public
Commission #CC127430

1. _____
2. _____
3. _____

A CERTIFIED TRUE COPY
HAROLD BAZZEL, CLERK
OF THE CIRCUIT COURT

By Harold Bazzel
Deputy Clerk

Exhibit

Appendix

C

OFFICE OF THE STATE ATTORNEY
FOURTEENTH JUDICIAL CIRCUIT OF FLORIDA
IN AND FOR BAY, CALHOUN, GULF, HOLMES, JACKSON AND WASHINGTON COUNTIES

JIM APPLEMAN
STATE ATTORNEY



IN REPLY REFER TO:

P.O. Box 1040
Panama City, FL 32402
(904) 872-4473

July 2, 1992

Honorable Harold Bazzel
Clerk of Circuit Court
Bay County Courthouse
Panama City, FL 32401

RE: STATE OF FLORIDA vs Michael Desue
Charge: Sale of Cocaine Within 200' of Public Housing
Facility (Amended)
Case No. 92-0266H
SA#: 0392F03081

JUL 7 11 31 AM '92
FILED

Dear Mr. Bazzel:

The State of Florida hereby formally announces a Noile
Prosequi in the above-referenced case and states as reason the
following:

the defendant found guilty by jury to Robbery With
Firarm and Robbery. Will receive life sentence as
habitual. After conferring with arresting officer,
Doug Pierce, decided not to pursue this case since it
would not add to sentence defendant received

Please make this letter a part of your files.

Sincerely,

JIM APPLEMAN
STATE ATTORNEY

By: *Pamela J Smoak*
Pamela J Smoak
Assistant State Attorney
Florida Bar # 559709

cc: Warrants -- BC50
CCA
Officer Doug Pierce, Panama City Police Department:

Exhibit 1

Appendix - C

IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR BAY COUNTY

STATE OF FLORIDA,

Plaintiff,

vs.

MICHAEL DESUE,

Defendant.

INFORMATION CHARGING:

SALE OR DELIVERY OF A CONTROLLED SUBSTANCE
WITHIN 200' OF A PUBLIC HOUSING FACILITY

FLORIDA STATUTE: 893.13

CASE NO. 92-0266-H

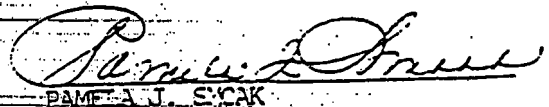
RECEIVED
MAR 3 12 PM '92
CLERK OF COURT
BAY COUNTY
FLORIDA
CG

PAMELA J. SMOAK, Assistant State Attorney for the Fourteenth
Judicial Circuit of the State of Florida, prosecuting in the name of and by
the authority of the State of Florida, in the County of Bay, under oath,
informs the Court that

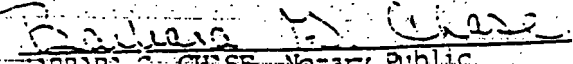
MICHAEL DESUE, on or about the 1st day of February, 1992, in the
County and State aforesaid, did unlawfully sell or deliver, or
possess with intent to sell or deliver a controlled substance,
to-wit: cocaine, within 200' of a public housing facility,
located at 1722 West 17th Street, Building D, Panama City, FL, in
violation of Section 893.13, Florida Statutes.

PAMELA J. SMOAK, Assistant State Attorney for the Fourteenth
Judicial Circuit of Florida, under oath, states that the allegations set forth
in this INFORMATION are based on facts that have been sworn to as true, under
oath, by material witness(es), and which, if true, would constitute the
offense(s) therein charged, and that this INFORMATION is filed in good faith.

The foregoing instrument was acknowledged
before me by Pamela Smoak, who is
personally known to me, and who did take
an oath this 2nd day of March
1992.



PAMELA J. SMOAK
Assistant State Attorney
P.O. Box 1040
Panama City, FL 32402
(904) 872-4473
FL Bar #: 559709


BARBARA M. CHASE, Notary Public
Commission #00127430

PROBABLE CAUSE AFFIDAVIT / ARREST / NOTICE TO APPEAR

App - C

92-2664

OBT# Number 0101049689910		Agency CR Number 01030100		Agency Name PANAMA CITY P.D.		Agency Report Number 2150812	
Change Type <input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor <input type="checkbox"/> Traffic Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Traffic Misdemeanor		Location of Arrest (Include Name of Employer) 1722 W. 17th St. P.C.F.		Location of Citise 1722 W. 17th St. Panama City, Fla.		Arresting Officer & I.D.# Pierce # 20	
Date of Arrest 02089201015		Time of Arrest 0105		Number Clear Cases 2		Domestic Violence <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Name (Last, First, Middle) DeSue, Michael C.		Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		Date of Birth or Age 08101613		Height 69"	
Race <input checked="" type="checkbox"/> White <input type="checkbox"/> American Indian <input type="checkbox"/> Black <input type="checkbox"/> Other		Weight 200		Eye Color Blue		Hair Color Blk	
Complexion Dark		Build Med		Scars, Marks, Tattoos, Unusual Physical Features, Location, Type, Description		Indication of: <input type="checkbox"/> Alcohol Influence <input type="checkbox"/> Drug Influence	
Local Address (Street, Apt. Number) 1802 Flowers Ave. Panama City, Fla.		City Panama City, Fla.		State Fla.		Phone 	
Business Address (Name, Street) 		City 		State 		Phone 	
Driver's License State/Number 		Social Security Number 264-57-2784		I.D.# Number 		Place of Birth May Co. Fla.	
Arresting Agency <input checked="" type="checkbox"/> Local Custodian <input type="checkbox"/> Other		Name of Parent or Custodian (If 18 or Under) 		State 		Residence Phone 	
Address (Street, Apt. Number) 		City 		State 		Business Phone 	
Arrested By (Name) 		Date 		Time 		Arresting Agency 	
Released To (Name) 		Relationship 		Date 		Time 	
Activity <input checked="" type="checkbox"/> Sale <input type="checkbox"/> Possession		Substance CRACK COCAINE		Statute Violation Number 893.13		Court Number 	
Charge Description SALE OF CONTROLLED SUBSTANCE		Class 1st		Date Issued 		Order of Arrest 	
Activity <input type="checkbox"/> Sale <input type="checkbox"/> Possession		Substance 		Statute Violation Number 		Court Number 	
Charge Description 		Class 		Date Issued 		Order of Arrest 	
The undersigned certifies and swears that he/she has read and understands grounds to believe and does believe that the above named Defendant committed the following violation of law On the 1st day of February 1992 at 11:17 AM in the City of Panama City, Bay County, Florida, specifically 1722 W. 17th St. Bldg. d. The above named defendant did approach your affiant and sell a suspected crack cocaine rock for twenty dollars. Your affiant was working in an undercover capacity investigating narcotics activity in the area of 1722 W. 17th St. A field test showed a positive reaction to the presence of cocaine. Due to the above stated facts this affiant believes the defendant is in violation of F.S. 893.13 to wit sale of controlled substance.							
Signature of Defendant/Juvenile and Parent or Guardian 							
Signature of Affiant 							
Signature of Detention/Juvenile and Parent or Guardian 							
Signature of Other Agency 							
Signature of Court 							

App. C

92/1113

STATE OF FLORIDA

C. S# 0004968990
IN THE COUNTY COURT

Vs.

Michael Charles Desue

IN AND FOR BAY COUNTY

FIRST APPEARANCE
RCrP 3.130, 3.131

92-206H

You, Michael Charles Desue, having been arrested on 2-8-92, are informed that a complaint has been made charging you with the below listed offenses and a copy of the charging document(s) is now provided to you. You have a right to remain silent, and if you do not remain silent anything you say may be used as evidence against you in Court. You have a right to be represented by a lawyer, and if you want one and cannot afford to hire one, a lawyer will be appointed for you at no cost to you. You have a right to communicate with your lawyer, family or friends, and if you desire to do so reasonable means will be provided for you to do so. If formal charges are not filed against you within 21 days of your arrest, you will then have the right to demand a hearing to determine whether there is probable cause to detain you on any felony charge that remains against you. You may give up the right to be represented by a lawyer at this first appearance hearing and still insist upon the right to legal representation at future proceedings.

I have read or had explained to me my rights outlined above and I acknowledge receipt of a copy of this form. I (am) (am not) able to hire a lawyer and I (do) (do not) want a lawyer appointed for me at this time.

(Counsel for defendant present at first appearance)

Michael P. Desue
(Defendant)

CHARGE	Date/Time	County/Circuit	Bond
<u>Sale of Cocaine</u>	<u>2-8-92 1:30PM</u>	<u>CIRCUIT</u>	<u>5000.00</u>

POSTED
TN

All Circuit and County Court appearances will be at the date and time indicated above in the Bay County Courthouse, Panama City, Florida.

The foregoing was voluntarily and knowledgeably signed in my presence after full explanation of the defendant's rights. Having examined the necessary proof at a non-adversary probable cause hearing, I find probable cause (does) (does not) exist for detaining the defendant pending further proceedings.

The following conditions of bail are always applicable: (1) Do not contact the victim in any manner except through proper pre-trial discovery; (2) Do not violate the law.

2-8-92
Date

Tom Welch
(Judge)

McConnell Prtg. Co.

54

000443

53

3058

CBT 7004973134

STATE OF FLORIDA

Appendix-C

IN THE COUNTY COURT

Vs.

IN AND FOR BAY COUNTY

Michael Charles Desue

✓ 92-763H
✓ 92-764H

FIRST APPEARANCE
RCrP 3.130, 3.131

You, Michael Charles Desue, having been arrested on 041292, are informed that a complaint has been made charging you with the below listed offenses and a copy of the charging document(s) is now provided to you. You have a right to remain silent, and if you do not remain silent anything you say may be used as evidence against you in Court. You have a right to be represented by a lawyer, and if you want one and cannot afford to hire one, a lawyer will be appointed for you at no cost to you. You have a right to communicate with your lawyer, family or friends, and if you desire to do so reasonable means will be provided for you to do so. If formal charges are not filed against you within 21 days of your arrest, you will then have the right to demand a hearing to determine whether there is probable cause to detain you on any felony charge that remains against you. You may give up the right to be represented by a lawyer at this first appearance hearing and still insist upon the right to legal representation at future proceedings.

I have read or had explained to me my rights outlined above and I acknowledge receipt of a copy of this form. I (am) (am not) able to hire a lawyer and I (do) (do not) want a lawyer appointed for me at this time.

(Counsel for defendant present at first appearance)

Michael C. Desue
(Defendant)

13
12:00 PM '92

CHARGE	Date/Time	County/Circuit	Bond
<u>ARMED Robbery</u>	<u>MAY 13, 92</u>	<u>Circuit</u>	<u>30,000.00</u>
<u>Robbery</u>	<u>@ 9:30 AM</u>	<u>Circuit</u>	<u>25,000.00</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

POSTED
TN

All Circuit and County Court appearances will be at the date and time indicated above in the Bay County Courthouse, Panama City, Florida.

The foregoing was voluntarily and knowledgeably signed in my presence after full explanation of the defendant's rights. Having examined the necessary proof at a non-adversary probable cause hearing, I find probable cause (does) (does not) exist for detaining the defendant pending further proceedings.

The following conditions of bail are always applicable: (1) Do not contact the victim in any manner except through proper pre-trial discovery; (2) Do not violate the law.

April 12, 1992
Date

[Signature]
Judge

Appendix-C

168-92 issued 4-9-96
92-763H

PROBAL CAUSE AFFIDAVIT / ARREST / NOTICE APPEAR

Agency ORI Number: _____ Agency Name: PANAMA CITY P.D. Agency Report Number: 1439192
 Agency Arrest Number: _____
 Charge Type: _____
 Location of Arrest (Include Name of Business): _____
 Location of Offense: 17th Street and Fairy Avenue
 Date of Arrest: _____ Time of Arrest: _____
 Domestic Violence: _____ Arresting Officer & I.D. #: _____

Name (Last, First, Middle): Desue, Michael
 Sex: M Date of Birth or Age: 01/8/10/61/61/5 Height: 5'11" Weight: 180 Eye Color: Brown Hair Color: Black Complexion: Med. Build: Med.
 Local Address (Street, Apt. Number): 1802 Flower Avenue, Panama City, Florida 32405
 Business Address (Name, Street): _____
 Driver's License State/Number: _____ Social Security Number: Unknown
 Place of Birth: Panama City, FL. Citizenship: U.S.

Parent: _____ Name of Parent or Custodian: _____
 Address (Street, Apt. Number): _____
 Occupied by: _____
 Relationship: _____

Charge Description: Robbery
 Activity: _____ Drug Type: _____ Amount/Unit: _____
 PC _____ Class: _____ AC _____ BW _____ FW _____ PW _____ JUV _____ PU _____
 State Violation Number: _____
 State Attorney Number: _____
 Court Number: _____

The undersigned certifies and swears that herein has just and reasonable grounds to believe and show believe that the same named Juvenant committed the following violation of law:
 On the 20th day of January "92 at 2222 Hwy 90 Jason Grenard reported that a black male shoved a sharp object in his stomach and demanded money. Mr. Grenard handed the subject \$80.00 in cash. The defendant was given a ride from the Panama City Mall to 17th Street and Fairy Avenue in Panama City, Bay County, Florida where the incident occurred. Through further investigation the defendant was developed as a suspect. On 04/08/92 Mr. Grenard positively identified the defendant from a photographic line up, as being the subject that robbed him.

POSTED

Mandatory Appearance in Court: _____
 Location of Court: _____
 Date: _____
 Time: _____
 Signature of Defendant/Juvenant and Parent or Guardian: _____

NOTICE TO APPEAR AT THE TIME AND PLACE DESIGNATED IF ANSWER THE DEFENSE (NAMED) IS TO PAY THE FINE (NAMED) AND TO APPEAR AT THE COURT AS REQUIRED BY THIS NOTICE TO APPEAR THAT MAY BE HELD IN ANY COURT OF RECORD IN ANY COUNTY OF THE STATE OF FLORIDA.

NOTARY PUBLIC State of Florida
 My Commission Expires December 30, 1995
 Signature: _____
 Date: _____

Appendix - C

with 16892 (92-763 H)
issued 4-9-92

Received this Warrant this 9th day of
April, A.D. 1992 and executed
it on the 11th day of April
A. D. 1992 by arresting the within named
Michael DeSue
and having him now before the Court; to be
dealt with according to law, this _____ day of
_____, A. D. 19_____

In County Court
Bay County, State of Florida

STATE OF FLORIDA
VS.

Michael DeSue
B/M; 08/06/65; 5'11"; 180 Lbs; Brown Eyes
Black Hair
1802 Flowers Avenue, Panama City, FL

WARRANT

Robbery - 812.13

PCPD Case #1439.92
Det. Sam Slay, #38 PCPD

RECEIVED
'92 APR 9 AM 3 05
BAY CO SHERIFF'S OFFICE
BAY COUNTY, FL.

FILED
APR 13 11 53 AM '92
CLERK OF COURT
BAY COUNTY, FL

POSTED
TM

Cory M. Tunnell
Sheriff
[Signature]
Deputy Sheriff

McC. Prtg.

BCSO ACT # 92-016131

000449

PROBABLE CAUSE AFFIDAVIT / ARREST / NOTICE TO APPEAR

92-764H

Agency Report Number: 704892
 Agency Arrest Number: []
 Charge Type: []
 Location of Arrest: []
 Date of Arrest: []
 Arresting Officer & I.D. #: []

DEFENDANT
 Name: Desue, Michael
 Race: White
 Date of Birth: 08/06/65
 Height: 5'11" | Weight: 180
 Eye Color: Brown | Hair Color: Black
 Complexion: Med. | Build: Med.
 Local Address: 1802 Flower Avenue, Panama City, Florida, 32405
 Business Address: []
 Driver's License State/Number: [] | Social Security Number: Unknown
 Place of Birth: Panama City, FL. | Citizenship: U.S.

JUVENILE
 Name of Parent or Custodian: []
 Address: []
 Notified By: []
 Released for: []

CHARGE
 Activity: Armed Robbery
 Counts: 1
 Statute Violation Number: 811.2(1)3
 State Attorney Number: []
 Court Number: []
 PC: [] | Capias: [] | AC: [] | BW: [] | FW: [] | PW: [] | Ju: [] | PU: []

PROBABLE CAUSE STATEMENT
 The undersigned certifies and swears that he/she has just and reasonable grounds to believe and does believe that the above named Defendant committed the following violation of law:
 On the 2nd day of April 1992 at 5:30 AM X PM At 1527 Lincoln Avenue, located in Panama City, Bay County, Florida the listed defendant pulled a dark automatic pistol on the victim Robert Bozeman demanding his money, he then took \$80.00 cash from Mr. Bozeman and fled the area. The defendant was developed as a suspect and was positively identified from a photo line up as being the person who had robbed Mr. Bozeman at gun point. Because of the listed facts your affiant has reason to believe and does believe that the above listed defendant is in violation of Florida State Statute 812.13 to wit armed robbery.

POSTED
TN

NOTICE TO APPEAR
 Mandatory Appearance in Court: []
 Location: []
 Time: []
 I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED TO ANSWER THE OFFENSE CHARGED. I WILL PAY THE FINE AND SURCHARGE IMMEDIATELY. IF I FAIL TO APPEAR BEFORE THE COURT AS REQUIRED BY THIS NOTICE TO APPEAR THAT I MAY BE HELD IN CONTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED.

ADMINISTRATIVE
 Miranda Warning: []
 Adult Appearance: []
 Officer's Signature: Paul Winterman #34
 Date: []
 Releasing Officer: []

APPENDIX - C

340 2323

W# 169-92

72-764 H

issued 4-9-92

Received this Warrant this 9th day of April, A.D. 1992 and executed it on the 11th day of April, A. D. 1992 by arresting the within named Michael Desue and having him now before the Court, to be dealt with according to law, this day of April, A. D. 1992.

In County Court
Bay County, State of Florida

STATE OF FLORIDA

VS.

Michael Desue
1802 Flower Avenue
Panama City, Florida

Black male, 08/06/65, 5'11", 180 lbs.
Brown eyes, black hair, med. build

WARRANT

812.13 Armed Robbery

P.C.P.D. Case: 47048.92 (Winterman)

RECEIVED

9 AM 3 05

SHERIFF'S OFFICE
BAY COUNTY, FL.

Guil. M. Tunnel

'92 APR 26

Sheriff

Deputy Sheriff

Mc3. Prtg.

POSTED

BCSO ACT # 92-016131

000450

APR 12 11 53 AM '92
SHERIFF'S OFFICE
BAY COUNTY, FLORIDA

IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR BAY COUNTY

STATE OF FLORIDA,

Plaintiff,

vs.

MICHAEL DESUE,

Defendant.

AMENDED INFORMATION CHARGING:

COUNT I: SALE OF CONTROLLED SUBSTANCE
WITHIN 200' OF PUBLIC HOUSING
COUNT II: ROBBERY
COUNT III: ROBBERY WITH A FIREARM

FLORIDA STATUTE: 893.13; 812.13; 775.087

CASE NO. 92-0266H; 92-0763H; 92-0764H

PAMELA J. SMOAK, Assistant State Attorney for the Fourteenth
Judicial Circuit of the State of Florida, prosecuting in the name of and by
the authority of the State of Florida, in the County of Bay, under oath,
informs the Court that

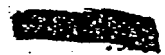
POSTED

COUNT I
MICHAEL DESUE, on or about the 1st day of February, 1992, in the
County and State aforesaid, did unlawfully sell or deliver, or
possess with intent to sell or deliver a controlled substance,
to-wit: cocaine, within 200' of a public housing facility,
located at 1722 West 17th Street, Building D, Panama City, FL, in
violation of Section 893.13, Florida Statutes.

COUNT II
MICHAEL DESUE, on or about the 20th day of January, 1992, in the
County and State aforesaid, did unlawfully by force, violence,
assault or putting in fear, take certain property, to-wit: cash,
the property of Jason Grenard as owner or custodian, in violation
of Section 812.13, Florida Statutes.

COUNT III
MICHAEL DESUE, on or about the 2nd day of April, 1992, in the
County and State aforesaid, did unlawfully by force, violence,
assault or putting in fear, take certain property, to-wit: cash,
the property of Robert Bozeman as owner or custodian, from the
person or custody of Robert Bozeman and in the course of
committing said Robbery, carried a firearm, in violation of
Sections 812.13 and 775.087, Florida Statutes.

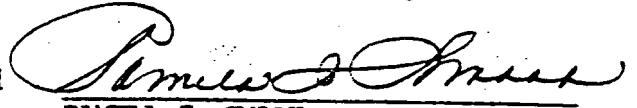
PAMELA J. SMOAK, Assistant State Attorney for the Fourteenth
Judicial Circuit of Florida, under oath, states that the allegations set forth



in this INFORMATION are based on facts that have been sworn to as true, under oath, by material witness(es), and which, if true, would constitute the offense(s) therein charged, and that this INFORMATION is filed in good faith.

The foregoing instrument was acknowledged before me by Pamela Smoak, who is personally known to me, and who did take an oath this 23rd day of April, 1992.

Barbara G. Chase
BARBARA G. CHASE, Notary Public
Commission #CC127430



PAMELA J. SMOAK
Assistant State Attorney
P.O. Box 1040
Panama City, FL 32402
(904)872-4473
FL Bar #: 559709

IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR BAY COUNTY

STATE OF FLORIDA,

Plaintiff,

vs.

CASE NO. 92-0266-H

MICHAEL DESUE,

Defendant.

VERDICT

WE, the jury, find as follows, as to the defendant in this case:
(check only one)

- a. The defendant is guilty of Armed Robbery With a Firearm as charged.
- b. The defendant is guilty of Robbery With a Weapon.
- c. The defendant is guilty of Robbery.
- d. The defendant is guilty of Petit Theft.
- e. The defendant is not guilty.

SO SAY WE ALL.

DATED this 30th day of June, 1992.

Fannie Blue
FOREPERSON

FILED
DATE June 30 TIME 4:16

Harold Bazzel
HAROLD BÄZZEL
CLERK OF CIRCUIT COURT

Appendix C

IN THE CIRCUIT COURT, FOURTEENTH
JUDICIAL CIRCUIT, IN AND FOR BAY
COUNTY, FLORIDA.

MICHAEL DESUE,

Defendant/Appellant,

vs.

CASE NO.: 92-266H

STATE OF FLORIDA,

Plaintiff/Appellee.

FILED
JUN 23 11:53
COURT REPORTER

VOLUME II (of II)

Whereupon, the following proceedings came on to be heard before the Hon. Dedee S. Costello, Circuit Court Judge, at the Bay County Courthouse, Panama City, Florida, commencing on the 30th day of June, 1992.

APPEARANCES:

FOR THE STATE:

Hon. Pam Smoak, Assistant
State Attorney, P. O. Box 1040,
Panama City, Fl 32402.

FOR THE DEFENDANT:

Hon. Paul Komarek, Attorney at
Law, P. O. Box 2522, Panama
City, Fl 32402.

REPORTED BY:

SHERRI R. LESSIG
OFFICIAL COURT REPORTER

FILED
JUN 28 11:32
COURT REPORTER

1 THE CLERK: "State of Florida versus Michael
2 DeSue. We the jury find as follows as to the Defendant
3 in this case: The Defendant is guilty of armed robbery
4 with a firearm as charged. So say we all, dated this
5 30th day of June, 1992. Foreperson, Bonnie Blue."

6 THE COURT: Okay, any requests, Mr. Komarek?

7 MR. KOMAREK: Yes, I would request the jury be
8 polled.

9 THE COURT: Madam Clerk, please.

10 (All jurors responded in the affirmative as to
11 their verdict.)

12 THE COURT: File the verdict. Members of the
13 jury, I want to thank you for your time and consideration
14 of this case.

15 I also wish to advise you of some very special
16 privileges enjoyed by jurors.

17 No juror can ever be required to talk about the
18 discussions that occurred in the jury room, except by
19 court order. For many centuries, our society has relied
20 upon juries for consideration of difficult cases. We
21 have recognized for hundreds of years that a jury's
22 deliberations, discussions and votes should remain their
23 private affair as long as they wish it. Therefore, the
24 law gives you a unique privilege not to speak about the
25 jury's work.

1 Although you are at liberty to speak with
2 anyone about your deliberations, you are also at liberty
3 to refuse to speak to anyone. A request may come from
4 those who are simply curious, or from those who might
5 seek to find fault with you. It will be up to you to
6 decide whether to preserve your privacy as a juror.

7 I want to thank you on behalf of myself and the
8 other judges in this circuit because without your
9 willingness to serve we could not conduct the business of
10 the court and we sincerely appreciate your services. If
11 you would take off your juror badges and leave them on
12 the rial in front of you. I would ask the parties to
13 stay here until the jury exists the courtroom.

14 (Jury dismissed at this time.)

15 THE COURT: Mr. DeSue, the jury having tried
16 you and found you guilty as charged, you are adjudged
17 guilty of armed robbery with a firearm. How do you want
18 to do this in terms of sentencing? We have two more
19 trials this week but shall we determine that at the end
20 of the week?

21 MRS. SMOAK: That's fine.

22 THE COURT: Okay, we will take care of that and
23 you're remanded to custody and held without bond on this
24 particular charge.

25 (Proceedings concluded at this time.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF BAY)

I, Sherri R. Lessig, Official Court Reporter, at Panama City, Florida, Fourteenth Judicial Circuit, do hereby certify as follows:

THAT I correctly reported in machine shorthand the foregoing proceedings at the time and place stated in the caption hereof;

THAT I later reduced my machine shorthand notes to typewriting, and that the foregoing pages numbered ___through___, both inclusive contain a full, true and correct transcript of the proceedings taken on said occasion;

THAT I am neither of kin nor of counsel to any parties involved in this matter nor in any manner interested in the result thereof;

THIS _____ day of _____, 1992.

SHERRI R. LESSIG

OFFICIAL COURT REPORTER

Appendix

C

IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR BAY COUNTY

STATE OF FLORIDA,
Plaintiff,

vs.

CASE NO. 92-0266-H

MICHAEL DESUE,
Defendant.

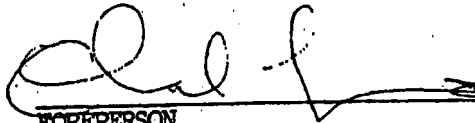
VERDICT

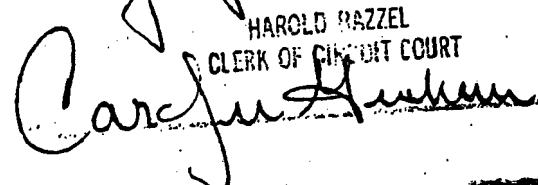
WE, the jury, find as follows, as to the defendant in this case:
(check only one)

- X a. The defendant is guilty of Robbery as charged.
- b. The defendant is guilty of Petit Theft.
- c. The defendant is not guilty.

SO SAY WE ALL.

DATED this 1st day of July, 1992.


FOREPERSON

FILED
DATE July 1 TIME 3:30 P.M.
HAROLD HAZEL
CLERK OF CIRCUIT COURT


~~XXXXXX~~

VOL I

A-11509

IN THE CIRCUIT COURT, FOURTEENTH
JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA, IN AND FOR BAY COUNTY

MICHAEL DESUE,

Defendant/Appellant,

-vs-

CASE NO.: 92-266
92-763
92-764

STATE OF FLORIDA,

Plaintiff/Appellee.

RECORDED
DEC 14 4 21 PM '92
CLERK OF DISTRICT COURT
BAY COUNTY, FLORIDA

FILED

THIS CAUSE came on to be heard at Trial
in the above-referenced cause before the Honorable
Dedee S. Costello, July 1, 1992, in Panama City,
Bay County, Florida.

RECORDED
DEC 30 1992
CLERK OF DISTRICT COURT
BAY COUNTY, FLORIDA

APPEARANCES

Honorable Pam Smoak, Assistant State Attorney,
P. O. Box 1040, Panama City, FL 32402

Honorable Paul Komarek, Attorney for Defendant Desue,
P. O. Box 2522, Panama City, FL 32402

Marie G. Bazzel
Official Court Reporter
Post Office Box 2174
Panama City, Florida 32402
(904) 769-7601

I N D E X

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1 JULY 1, 1992

2 IN CHAMBERS

3 THE COURT: OK, Mr. Komarek, do you
4 have some preliminary matters we need to take
5 up?

6 MR. KOMAREK: Yes, Your Honor. This is
7 probably repetitious but this is a separate
8 record since we had a severance, the pleading
9 all have the...

10 THE COURT: Excuse me, go ahead.

11 MR. KOMAREK: I don't know what the case
12 numbers on the pleadings reflect but in any
13 event the motions need to apply to all three
14 cases at one time and then there was a severance
15 as you recall. In any event, I just wanted
16 to inform the Court once again that my client
17 has discharged me and since we're having three
18 separate trials now, he's discharged me for
19 all three as I announced yesterday, he's discharged
20 me on this case today, both yesterday and today
21 so he does not wish me to represent him and
22 his grounds are that ineffective assistance
23 of counsel, that I have not prepared sufficiently
24 to try these cases. I also have a motion to
25 continue which the grounds are the same as before

1 THE COURT: Those motions each are denied.
2 Now, anything else pending the return of the
3 verdict?

4 MR. KOMAREK: The defense has nothing else.

5 THE COURT: Any other evidentiary matters,
6 were there any other evidentiary matters that
7 were heard at side bar and not put on the record?
8 Ms. Smoak?

9 MS. SMOAK: No, ma'am.

10 THE COURT: Mr. Komarek?

11 MR. KOMAREK: No.

12 THE COURT: All right. while we're here,
13 what about tomorrow?

14 COURT REPORTER: Is this on the record?

15 THE COURT: No.

16 (Recess)

17 (Upon resuming-In Open Court)

18 THE COURT: Members fo the jury, have you
19 reached a verdict?

20 FOREMAN: Yes, ma'am, we have.

21 THE COURT: Would you hand it to the bailiff,
22 please?

23 THE COURT: Madam Clerk, would you publish
24 the verdict?

25 CLERK: State of Florida v. Michael Desue.

1 Verdict, we the jury find as follows as to the
2 defendant in this case. The defendant is guilty
3 of robbery as charged so say we all, dated the
4 1st day of July, 1992, foreperson...

5 THE COURT: Mr. Spencer.

6 CLERK: Mr. Spencer, Charles Spencer.

7 THE COURT: Any requests?

8 MR. KOMAREK: I would request that the
9 jury be polled, please.

10 THE COURT: OK, Madam Clerk.

11 CLERK: Ms. Jones, is this your verdict?

12 JUROR JONES: Yes.

13 CLERK: Mr. Spender, is this your verdict?

14 JUROR SPENCER: Yes.

15 CLERK: Mr. Goodwin, is this your verdict?

16 JUROR GOODWIN: Yes.

17 CLERK: Ms. Williams, is this your verdict?

18 JUROR WILLIAMS: Yes.

19 CLERK: Ms. Jarmin, is this your verdict?

20 JUROR JARMIN: Yes.

21 CLERK: Ms. Duncan, is this your verdict?

22 JUROR DUNCAN: Yes.

23 THE COURT: The Clerk may file the verdict.
24 Members of the jury, I want to thank you for
25 your jury service and advise you of some special

1 privileges enjoyed by jurors. No juror except
2 by Court order can ever forced to discuss the
3 votes and deliberations that occurred in the
4 jury room. You are at liberty to discuss this
5 matter with anyone you wish. You're also at
6 liberty to refuse to do so. That is your own
7 choice.

8 Your jury service is complete here. I
9 want to thank you on behalf of myself and the
10 other judges in this circuit. Without your
11 willingness to serve, we couldn't conduct the
12 business of the Courts. We do appreciate it.
13 If you would remove your juror badges and place
14 them on the rail in front of you. We will recycle
15 those tomorrow. I do want to thank you and
16 you're excused. You will be getting your checks
17 from the Clerk's office in the mail probably
18 sometime next week.

19 I would ask that everyone remain in the
20 courtroom and seated for just a moment until
21 the jury has had a chance to exit. Thank y'all,
22 you're free to go.

23 Mr. Desue, the jury having tried you and
24 found you guilty of robbery, you are adjudicated
25 guilty of that offense. We can schedule sentencing

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after tomorrow, if you like. And you'll remain
in the custody and held without bond and tomorrow
morning at quarter until nine we will resume.
Court is in recess.

(All proceedings as to this
defendant are concluded)



IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR BAY COUNTY

STATE OF FLORIDA

-vs-

CASE NO. 92-764 92-763
92-266

MICHAEL DESUE

POSTED
GG

MOTION TO SEVER

The Defendant, Michael Desue, through his undersigned attorney and pursuant to Florida Rule of Criminal Procedure 3.152, requests the Court to enter an order severing the offenses herein for the purposes of trial; and, as grounds therefor, would show to the Court that:

1. This motion is to supplement the ore tenus motion made by counsel at the pretrial conference held June 3, 1992.

2. The charges pending against the Defendant are not related in any way.

3. The charges pending against the Defendant are alleged to have occurred on different days, with different alleged victims, and with different methods of operation.

4. A severance of the charges for trial is necessary to promote a fair determination of the Defendant's guilt or innocence on each offense.

5. It would be grossly prejudicial for the Defendant to be tried at the same time, before the same jury, on all the pending charges.

WHEREFORE, the Defendant prays that the Court will enter an order severing the offenses charged against the Defendant for the purpose of trial.

I HEREBY CERTIFY that a copy hereof has been delivered by hand to Pamela J. Smoak, Assistant State Attorney, P. O. Box 1040, Panama City, Florida, on this 18th day of June, 1992.

DANIEL & KOMAREK, Chartered

BY 

PAUL G. KOMAREK
Florida Bar No. 0189057
P. O. Box 2522
Panama City, FL 32402
(904)763-6565
ATTORNEY FOR DEFENDANT

000000

CIRCUIT COURT MINUTES

DATE JUNE 29, 1992

TIME 09:00 A.M.

PRESIDING JUDGE DEDEE S. COSTELLO

CLERK PRESENT CAROLYN GRAHAM

COURT REPORTER SUSAN/DILTZ/EDWARDS/BAZZEL/

STATE OF FLORIDA

ATTORNEYS:

VS CASE NO. 92-266

STATE: PAM SNOAK

MAICHAEL DESUE

DEFENSE: PAUL KOMAREK

CHARGE: Murder Wednesday
COUNT I: SALE OR DELIVERY OF SUBSTANCE WITH IN 200 FT OF PROJECT: COUNT II: ROBBERY
COUNT III: ROBBERY WITH A FIREARM - Tuesday Ct. III Tuesday at 9:00

Charges severed
First Trial - Armed Robbery Ct. III Tuesday
June 29, 1992

11:30 Court is called to order and 14 prospective
jurors are called and sworn. and Pam Smoak
for the State Begins Voir Dire.

11:50 Defense Begins Voir Dire - Paul Komarek

#186 Albert Kerneel #196 Michael Cassa

#187 Jimmy Nantz #198 Kenny Corley

#190 Ralph Crompton #199 Bonnie Blue

#198 Jimmy Santol #200 James Nechols

#193 Elizabeth Bowers #203 Mae Bell Infinger

#194 Rex Raffield #205 Dennis Lomaris

#195 Sheryl Qualls #230 Scot Zingard

12:10 Six Jurors are selected to try the case

Tuesday at 9:00: No alternate

Court in recess until 9:00 A.M. Tuesday

A.M. 8:30 In Motions

APP. - E

IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR BAY COUNTY

MICHAEL DESUE,
Plaintiff/Appellant, 'CORRECT CASE NO. 92-00266-CFA
vs. CASE NO. ~~92-763~~
Consolidated to
92-266
STATE OF FLORIDA,
Defendant/Appellee.

FILED
AUG 23 4 21 PM '92

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Michael Desue,
Defendant/Appellant, appeals to the District Court of Appeal,
First District of the State of Florida, pursuant to Rule
~~9.030(b)~~, Florida Rules of Appellate Procedure, the final order
of judgment and sentence rendered on the 5th day of August, 1992.

I HEREBY CERTIFY that a copy of the foregoing Notice of
Appeal has been served upon the State Attorney of the Fourteenth
Judicial Circuit, by and through the Honorable Pamela J. Smoak,
Assistant State Attorney, Fourteenth Judicial Circuit, P. O. Box
1040, Panama City, Florida; Honorable Bob Butterworth, Attorney
General, State of Florida, The Capitol, Tallahassee, Florida
32301; Honorable Virgil Q. Mayo, Public Defender, Fourteenth
Judicial Circuit, P. O. Box 499, Blountstown, Florida 32424; by
U.S. Mail, this 20th day of August, 1992.

DANIEL & KOMAREK, Chartered

BY Paul G. Komarek
PAUL G. KOMAREK
Florida Bar No. 0189057
P. O. Box 2522
Panama City, FL 32402
(904) 763-6565
ATTORNEY FOR DEFENDANT

POSTED
IN

000035

APPENDIX F
F

92-3017

MICHAEL DESUE,
Appellant,
v.
STATE OF FLORIDA,
Appellee.

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA
NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 92-3016

Docketed
6-2-94
Florida Attorney
General

Opinion filed May 27, 1994.

An appeal from the Circuit Court for Bay County.
Judge Dedee Costello.

Nancy A. Daniels, Public Defender, and Glen P. Gifford, Assistant
Public Defender, Tallahassee, for Appellant.

Robert A. Butterworth, Attorney General, and Amelia L. Beisner,
Assistant Attorney General, Tallahassee, for Appellee.

RECEIVED

MAY 31 1994

Criminal Appeals
Dept. of Legal Affairs

RECEIVED

MAY 27 1994

DEPT. OF LEGAL AFFAIRS
Division of General Legal Services

PER CURIAM.
AFFIRMED.

BARFIELD, ALLEN, and WOLF, JJ., CONCUR

Exhibit C

MANDATE

Appendix

F

From

DISTRICT COURT OF APPEAL OF FLORIDA
FIRST DISTRICT

To the Honorable, the Judges of the _____ Circuit Court for Bay County

WHEREAS, in that certain cause filed in this Court styled: _____

STATE OF FLORIDA

vs.

MICHAEL CHARLES DESUE

Case No. 92-3016

Your Case No. 92-266

RECEIVED

JUN 15 1994

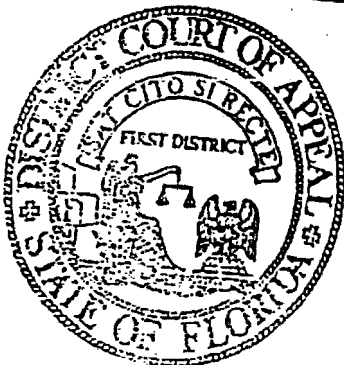
Criminal Appeals
Dept. of Legal Affairs

The attached opinion was rendered on May 27, 1994

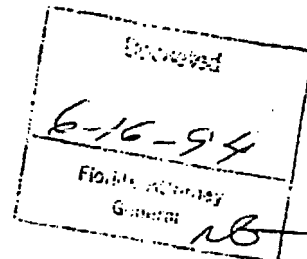
YOU ARE HEREBY COMMANDED that further proceedings be had in accordance with said opinion,
the rules of this Court and the laws of the State of Florida.

WITNESS the Honorable E. Earle Zehmer
Chief Judge of the District Court of Appeal of Florida, First District and the Seal of said

court at Tallahassee, the Capitol, on this
14th day of June, 1994



Jan. A. Tolson
Clerk, District Court of Appeal of Florida,
First District



000426