

**IN THE DISTRICT COURT OF APPEAL
FOR THE SECOND DISTRICT**

ANTHONY W. BROOM,
Petitioner,

vs.

**Lafayette Habeas Case No: 2D13-147-CA
Polk County Original Case No: 53-2013-CA-004721
District Case No: _____
New Polk County Case No: CF81-001860A1-XX**

**SCOTT CREWS, Warden
Mayo Correctional Institution Annex, and
STATE OF FLORIDA,**
Respondent.

PETITION FOR WRIT OF PROHIBITION

Pursuant to Rule 9.100 Fla.R.App.P., Anthony W. Broom, in propria persona, respectfully petitions this Court for a Writ of Prohibition restraining the 10th Judicial Circuit Court, from presiding as a reviewing Court in this case and shows this Court as follows:

I.

BASIS FOR INVOKING JURISDICTION

This Court has jurisdiction to issue a Writ of Prohibition under Article V, section 4(b)(3) of the Florida Constitution, and Rule 9.030(b)(3) Fla.R.App.P. Prohibition is the proper remedy to test the validity of the denial of the motion for disqualification of the lower court for lack of subject matter jurisdiction. Wovas v. Touse, Homes, Inc., 940 So.2d 116 (Fla. 2nd DCA 2006); State ex rel. Florida Real

Estate Commission v. Anderson, 164 So.2d 265 (Fla. 2nd DCA 1964).

II.
STATEMENT OF THE CASE

In order to show that the INDICTMENT does not establish probable cause (with the perjured affidavit removed) and that the trial Court Lacked Subject Matter Jurisdiction, defendant Broom will start with the First Appearance, that he was not allow to be present at.

The ASA as an Officer of the Court, first committed FRAUD on the Court and denied Broom due process of law at the First appearance, where he presented the perjured affidavit as probable cause and the Trial Court, therefore Lacked Subject Matter Jurisdiction.

The ASA had possession of the witness statements, which clearly establish from their statements, as used in the perjured affidavit, were not what they actually stated. The ASA never corrected what he learned to be false. Hence, FRAUD on the Court was perpetrated by the ASA, an Officer of the Court, violating due process.

To further establish that the affidavit contained perjured material information that the witnesses (Sinhgs) did not state, a Bond Reduction Hearing was held with Broom present. Once aware of the information in the sworn affidavit used as probable cause form the arresting detective, Broom informed his attorney that the affidavit was a lie and that Det. Woodard was a liar, for there could not have been an

argument between Broom and the victim where he was not in the room at the time of the tragedy, but rather at the Coke machine. With this information from Broom, his attorney questioned Det. Woodard under oath and she candidly admitted that the material information in her sworn affidavit was not what the witnesses had stated, establishing the affidavit to be perjury.

Next, the ASA presented this perjured affidavit to the grand jury to influence them into returning their true bill. This violated the grand jury's independent finding of probable cause. As such, the indictment does not establish probable cause and the Trial Court Lacks Subject Matter Jurisdiction.

An indictment obtained with a fraudulent document cannot become a valid probable cause where through State Action the ASA as Prosecutor presented what he knew to be a perjured material affidavit. With a void indictment there is no probable cause, and the trial Court Lacks Subject Matter Jurisdiction because no crime is shown to have been committed.

Due process is violated and an indictment must be set aside when the Prosecutor permits a defendant to be tried upon an indictment to which he knows is based on a perjured material affidavit without informing the grand jury, the court, and the defense of such.

The grand jury was influenced by the ASA's use of the knowingly perjured material affidavit; the trial conviction is based upon the grand jury's materially

tainted indictment, causing said indictment to lack a valid probable cause that a crime had been perpetrated by the criminal agency of another – causing the trial court tot Lack Subject Matter Jurisdiction.

The CAUSE is Broom was prosecuted on an empty Grand Jury Indictment obtained by FRAUD by State Action with a proven and admittedly (by the Affiant) perjured affidavit stating that the death of Ms. Charlotte Swenson Martz was caused by the criminal of another, specifically by the defendant. This fraudulently insinuated that Charlotte’s death was other than suicide or by a bizarre accident, as established by the evidence.

The PREJUDICE to the defendant is that fact that the grand jury was unduly influenced into believing that a criminal act occurred instead of an accident or suicide, as the evidence established. The fraud perpetrated on the grand jury and the court by the ASA shows a miscarriage of justice, imprisoning an innocent man for a murder that never occurred. NO valid evidence of a crime exists with the perjured affidavit removed; therefore, the Trial Court clearly Lacks Subject Matter Jurisdiction.

III. **THE NATURE OF THE RELIEF SOUGHT**

The nature of the relief sought by this Petition is a Writ of Prohibition restraining the 10th Judicial Circuit Court from presiding as the review court in this case.

IV. **ARGUMENT**

When the Petitioner files a Petition for Writ of Prohibition to disqualify a Circuit Court for lack of jurisdiction, the role of this Court is limited to determining whether the Petition is sufficient on its face. The Court has no authority to pass on the truth of the facts alleged in the Petition, or to make any decision concerning the merits of the Petition. Fla.R.Jud.Admin. 2.160; Bundy v. Rudd, 366 So.2d 440 (Fla. 1978); Lake v. Edwards, 501 So.2d 759 (Fla. 5th DCA 1987). If the Petition is sufficient on its face, then the Court must “immediately enter an order granting disqualification and proceed no further in the action.” Fla.R.Jud.Admin. 2.160(f).

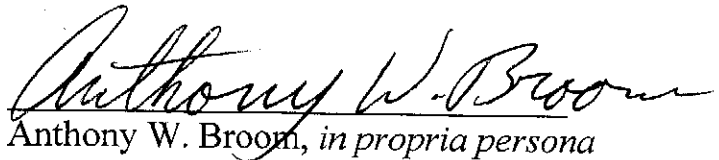
In this case the court is exceeding its authority by excepting the transfer of the Petition for Writ of Habeas Corpus filed in Lafayette County, Third Judicial Circuit to address the merits of said document which has already unlawfully changed the remedy from habeas corpus to postconviction 3.850 Motion. While it may be true that the receiving and reviewing court would have the authority to rule on the conviction and sentence pursuant to postconviction 3.850 Motion, the reviewing court does not have the authority to rule on the merits of a Petition for Writ of Habeas Corpus when the trial court lacked subject matter jurisdiction of the original 1981 charge as seen and established in the STATEMENT OF THE CASE on pages 2 thru 4 supra. That is the trial court lacked subject matter

jurisdiction when the prosecutor perpetuated FRAUD knowing it to be such in order to influence the grand jury into returning the State's tainted drafted INDICTMENT with their "true bull." This is an overreaching of the Prosecutor's function by presenting the knowing FRAUD to influence the grand jury in their independent finding. As such the trial court lacks subject matter jurisdiction and all actions taken by the court from the time the FRAUD is perpetuated is null and void. The prosecutorial misconduct amounts to overreaching the will of the grand jury so that the indictment is, in effect that of the Prosecutor rather than the grand jury, causing the grand jury no longer to be a grand jury and an indictment no longer to be an indictment and no subject matter jurisdiction. The Petition for Prohibition for disqualification of the review court is sufficient on its face to establish the existence of prejudice.

For these reasons the Petitioner respectfully submits that the review court has no authority to accept the Petition for Writ of Habeas Corpus from Lafayette County, Third Judicial Circuit Court because the review court lacks subject matter jurisdiction because of the FRAUD perpetuated in the original 1981 charge the trial court lacked subject matter jurisdiction because it was a nullity. Petitioner is housed in the territorial jurisdiction of the Third Judicial Circuit Court and a circuit court judge in one circuit may not issue a writ of habeas corpus to order the release of a party detained in another. Stein v. Stein, 537 So.2d 613 (Fla. 4th DCA 1988),

the appellate court held that the circuit court cannot issue a writ of habeas corpus when the person who is the subject of the writ is beyond the territorial jurisdiction of the court. Other courts have also held that the Petitioner must be detained within the circuit. See Lewis v. Florida Parole Com'n, 699 So.2d 965 (Fla. 1st DCA 1997)(other case cites omitted). Nor does the reviewing court have the authority to deny this Petition by contesting the merits of the Petitioner's allegations. Because the trial court continues to exercise authority over the case unlawfully when it lacked subject matter jurisdiction from the time the Prosecution perpetuated FRAUD on the grand jury and court resulting in everything from that point on to be a nullity and void. This Court should issue a Writ of Prohibition.

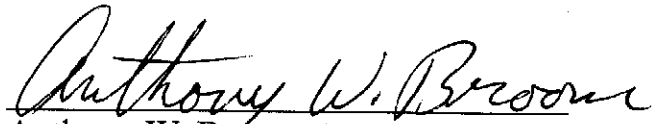
Respectfully Submitted,


Anthony W. Broom, *in propria persona*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing document was placed in the hands of Mayo Correctional Institution officials for mailing via U.S. Mail to: Office of the Attorney General, State of Florida, Criminal

Division, The Capitol, PL-01, Tallahassee, Florida 32399, on this 14 day of
November, 2013.



Anthony W. Broom, *in propria persona*

DC#: 081443 / E2108L

Mayo Correctional Institution Annex

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