

**IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT OF FLORIDA**

**ANTHONY W. BROOM**  
Petitioner

vs.

**Habeas Case # 1D11-3995**

**STATE OF FLORIDA**  
Respondent

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**MOTION FOR REHEARING TO CORRECT  
MANIFEST INJUSTICE**

**COMES NOW**, Petitioner, Anthony W. Broom, *pro se*, and respectfully moves this court for a rehearing to correct the manifest injustice of this Court's Per curiam denied, dated August 31, 2011, copy attached hereto. I address facts and matters that this Court has overlooked and/or misapprehended. This rehearing is timely filed pursuant to Rule 9.330 Fla.R.App.P. (2011), and I show the following:

**Preliminary Statement**

The "claim" in my habeas petition as seen on pages 5 through 20, clearly shows that no crime occurred. The facts show how the prosecutor used the perjured/fraudulent testimony/evidence to obtain the grand jury true bill INDICTMENT. This habeas petition does not attack the judgment and sentence. Habeas Corpus is the proper remedy in this Court for a void/illegal INDICTMENT

which denied the trial court jurisdiction. This Court has jurisdiction over this unlawful detention for a crime that never occurred, which is a manifest injustice denying due process. The judgment and sentence in this case is a nullify. Because of the void/illegal INDICTMENT that denied the trial court jurisdiction. There is no grosser manifest injustice, than a true bill INDICTMENT being returned, when there is no valid evidence for a crime, no probable cause and no criminal agency of another exist, only the evidence of the detective's perjury. Because of the secrecy of the grand jury I did not discover this manifest injustice, until years after my conviction and appeal process was over. No court has addressed this due process violation, for the past 30 years.

**Facts and matters overlooked or misapprehended by this court are:**

By citing Baker v. State, 878 So.2d 1236 (Fla. 2004), this court per curiam denied my habeas petition as unauthorized – because relief is available pursuant to a 3.850 motion in the trial court.

However, this court overlooked the Florida Supreme Court case I cited in my petition – Murray v. Regier, 872 So.2d 217 (Fla. 2002), which clearly states: “the reviewing courts jurisdiction is limited to whether the court that entered the order was without jurisdiction to do so or whether the order is void or illegal.” *Id.* at 221. The facts are I am not challenging the judgment or sentence. If I were this Court's citing of Baker, would be correct. This Court has misapprehended the ~~trust~~<sup>trust</sup>

of my petition, which is I am unlawfully imprisoned. Because of a true bill INDICTMENT returned that is void/illegal and also that the trial court lacked jurisdiction.

Article 1 section 15 of the Florida Constitution guarantees that there be a valid indictment for a charge of a capital crime. But, the State in my case knowingly secured the INDICTMENT by the conscious and deliberate use of perjured testimony/evidence. This is a sufficient ground for holding the INDICTMENT null and void. Everything thereafter is a nullify and the trial court lacked jurisdiction. Due process in this case has been violated and all safeguards were overlooked.

The habeas petition clearly establishes by the facts and evidence that there was NO crime committed. Not even a prima facie probable cause nor the criminal agency of another exist. This Court has jurisdiction over the county I am incarcerated in. Therefore this Court also has the obligation and duty to consider and address the merits of my petition.

This Court has further overlooked that it is elementary justice to be found guilty for a crime he committed and not guilty for a crime he did not commit. Regardless of the procedural technicalities that the criminal justice system imposes upon itself that system must have but one product – justice – and it is unjust for me to be in prison for over three (3) decades for a crime that never occurred. An

INDICTMENT for an offense as to which no valid evidence/testimony was presented constitutes fundamental error, just as an INDICTMENT for a crime that never occurred constitutes fundamental error. In fact, being INDICTMENT for a crime which did not take place is of such fundamental nature, when there is no valid evidence, it is a manifest injustice.

Baker, supra, also states in pertinent part:

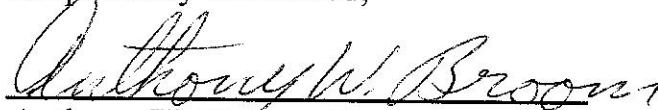
This Court will, of course remain alert to claims of manifest injustice, as will all Florida Courts... 'we will continue to be vigilant to ensure that no, fundamental injustices occurs.'

When the prosecutor in my case knowingly secured an INDICTMENT by his conscious and deliberate use of perjured testimony/evidence he knew to be such that is a sufficient ground for holding my INDICTMENT null and void. No grosser fraud could be perpetrated upon the grand jury or Court. Justice has not been found in this case.

This court also overlooked the fact that due process is implicated when the prosecutor tried me using an INDICTMENT which he knew was based on perjured material testimony/evidence. He then failed to inform the court, the defense and the grand jury. My habeas petition goes to the foundation of the illegal/void charge which strikes at the very heart of the system of jurisprudence and this petition preserves to me the right to have the issues of this cause determined on their merits. In this case I am unlawfully imprisoned. The trial court's lack of

jurisdiction is because the INDICTMENT is void/ illegal. There was NO crime and no evidence of a crime only evidence of the perjury by Det. Woodard.

Respectfully Submitted,

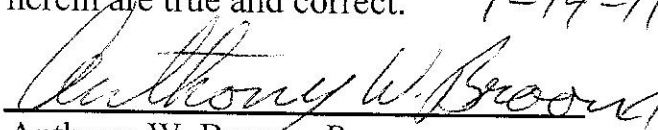


Anthony W. Broom, *Pro se*  
DC # 081443/ B3116L  
Mayo Correctional Institution  
8784 W. U.S. 27  
Mayo, FL 32066

**UNNOTARIZED OATH/VERIFICATION**

PURSUANT TO §92.525, FLORIDA STATUTES

**UNDER PENALTIES OF PERJURY**, I declare that I have read the foregoing document and that the facts stated herein are true and correct. 9-14-11



Anthony W. Broom, *Pro se*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY**, that a true copy of the foregoing document was placed in the hands of Mayo Correctional Institution officials to forward by U.S. Mail to: The Office of the Attorney General, The Capitol – PL01, Tallahassee, FL 32399

on this 14 day of September, 2011.



Anthony W. Broom, *Pro se*

CC: [www.freeanthonynow.org](http://www.freeanthonynow.org)

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

ANTHONY W. BROOM,

Petitioner,

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED.

v.

CASE NO. 1D11-3995

STATE OF FLORIDA,

Respondent.

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Opinion filed August 31, 2011.

Petition for Writ of Habeas Corpus -- Original Jurisdiction.

Anthony W. Broom, pro se, Petitioner.

Pamela Jo Bondi, Attorney General, Tallahassee, for Respondent.

PER CURIAM.

DENIED. See Baker v. State, 878 So. 2d 1236 (Fla. 2004).

BENTON, C.J., LEWIS and ROBERTS, JJ., CONCUR.