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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

ROBERT FINNEY III,
Petitioner

CASE NO:
JUDGE:

v.

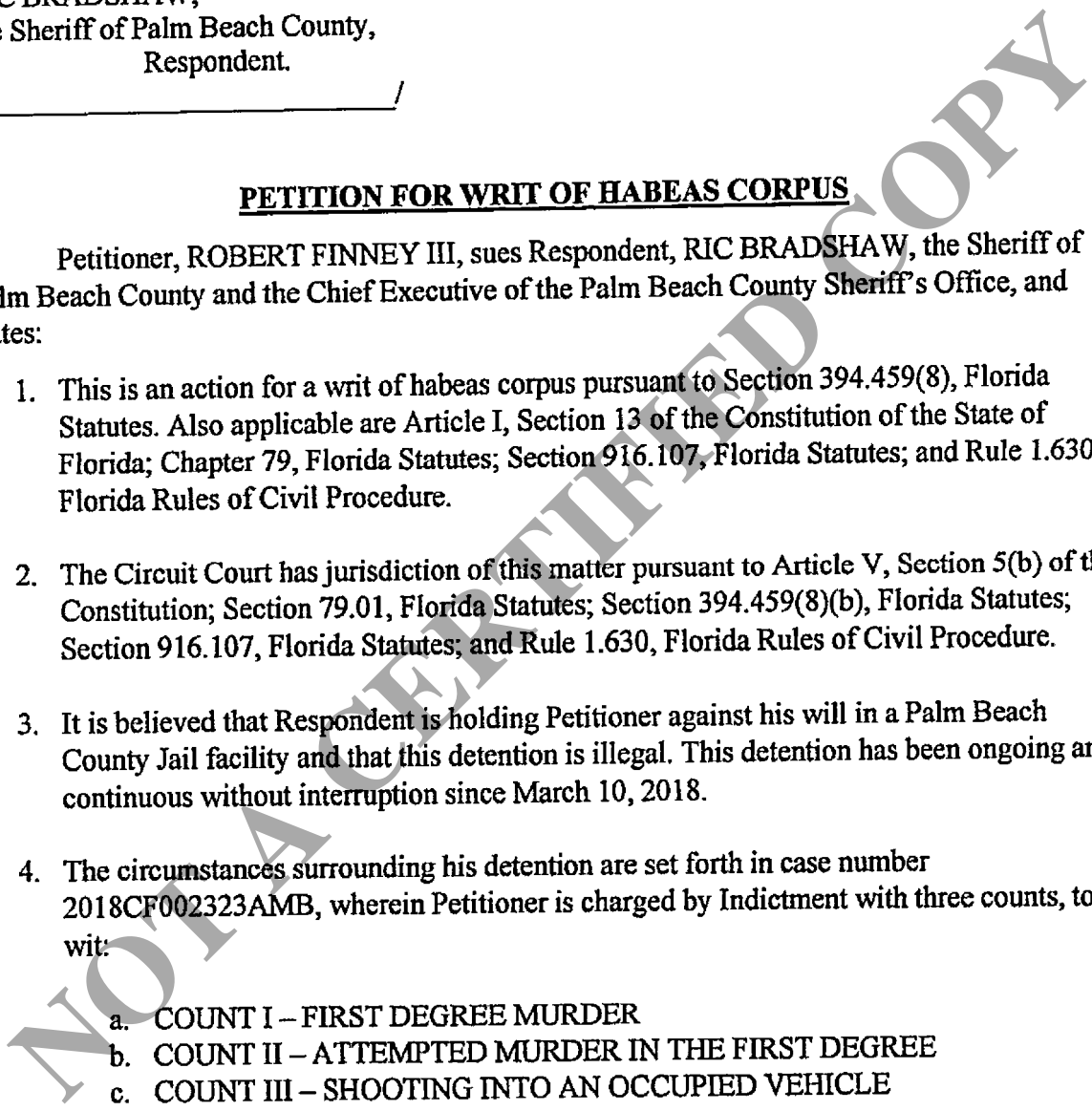
RIC BRADSHAW,
the Sheriff of Palm Beach County,
Respondent.

_____ /

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, ROBERT FINNEY III, sues Respondent, RIC BRADSHAW, the Sheriff of Palm Beach County and the Chief Executive of the Palm Beach County Sheriff's Office, and states:

1. This is an action for a writ of habeas corpus pursuant to Section 394.459(8), Florida Statutes. Also applicable are Article I, Section 13 of the Constitution of the State of Florida; Chapter 79, Florida Statutes; Section 916.107, Florida Statutes; and Rule 1.630, Florida Rules of Civil Procedure.
2. The Circuit Court has jurisdiction of this matter pursuant to Article V, Section 5(b) of the Constitution; Section 79.01, Florida Statutes; Section 394.459(8)(b), Florida Statutes; Section 916.107, Florida Statutes; and Rule 1.630, Florida Rules of Civil Procedure.
3. It is believed that Respondent is holding Petitioner against his will in a Palm Beach County Jail facility and that this detention is illegal. This detention has been ongoing and continuous without interruption since March 10, 2018.
4. The circumstances surrounding his detention are set forth in case number 2018CF002323AMB, wherein Petitioner is charged by Indictment with three counts, to wit:
 - a. COUNT I – FIRST DEGREE MURDER
 - b. COUNT II – ATTEMPTED MURDER IN THE FIRST DEGREE
 - c. COUNT III – SHOOTING INTO AN OCCUPIED VEHICLE
5. The circumstances surrounding Petitioner's detention are as follows:
 - a. Petitioner is married to the alleged victim (hereinafter R. M.) in Count II of the Indictment.
 - b. Petitioner and R. M. together filed for a simplified dissolution of marriage on February 21, 2018 (see exhibit A).



- c. The subsequent hearing for final judgment of dissolution of marriage was scheduled for April 13, 2018 (exhibit B).
 - d. On March 10, 2018, Petitioner went to work as usual, leaving his vehicle (a 2012 Toyota Scion) with R. M.
 - e. In the evening hours, when Petitioner was ready to leave work, he attempted to contact R. M. for her to retrieve him. His numerous attempts were unsuccessful.
 - f. Distraught and confused, he attempted to track his vehicle to ascertain the whereabouts, believing that something tragic and unforeseen had befallen R.M.
 - g. Petitioner used the Track my Phone app associated with his cellular phone which was left in the vehicle.
 - h. At approximately 9:43pm, Petitioner even called law enforcement and reported the vehicle stolen (PBSO Incident report #E1800234207).
 - i. Petitioner tracked his phone (and by extension his vehicle) to 2111 Brandywine Road.
 - j. He enlisted his friend Tracey Davis to assist in retrieving the car.
 - k. When they arrived at the location on Brandywine Road, Petitioner saw his vehicle and went to retrieve it.
 - l. Petitioner used his key fob to unlock the vehicle and opened the rear driver's side door so that he could remove his legally owned firearm.
 - m. The vehicle had the dome light disabled.
 - n. Upon opening the vehicle, Petitioner was confronted with an unknown occupant in the front passenger seat.
 - o. With his firearm and holster already removed from his person, he fired one shot into the shoulder of the individual.
 - p. Petitioner then heard a noise from a previously unseen occupant of the driver's seat and fired another shot through the back of the seat.
 - q. Petitioner then stepped out of the vehicle to assess the situation and noticed that the occupant of the driver's seat was his wife, R.M.
 - r. He had limited conversation with the alleged victim of Count I (hereinafter, R.A.), who left the scene and entered a nearby apartment.
 - s. Petitioner then called for emergency services, accurately explaining the situation and relay the correct information so that medical help could get to the scene as soon as possible.
 - t. When law enforcement arrived, Petitioner, explained the situation to them and willingly allowed himself to be detained.
6. An Arthur hearing to set a bond was held on August 13, 2018. Petitioner's request for bond was subsequently denied.
 7. Subsequent requests for rehearing and reconsideration were also denied.
 8. While Petitioner is a criminal defendant, the charges of First-Degree Murder and Attempted First Degree Murder are excessive and unwarranted under the facts.

MEMORANDUM OF LAW

The right to a writ of habeas corpus is guaranteed by Article I, Section 13, of the Constitution of the State of Florida. It can be issued by any circuit court pursuant to Article V, Section 5 (b) of the Constitution of the State of Florida.

Issuance of the writ of habeas corpus is mandatory. Section 79.01, Florida Statutes, states:

79.01 Application and writ.--When any person detained in custody, whether charged with a criminal offense or not, applies to . . . any circuit judge for a writ of habeas corpus and shows by affidavit or evidence probable cause to believe that he or she is detained without lawful authority, the . . . judge to whom such application is made shall grant the writ forthwith, against the person in whose custody the applicant is detained and returnable immediately before any of the . . . judges as the writ directs. (Emphasis added.)

The writ of habeas corpus is so important in connection with constitutional liberty that a motion to dismiss it or quash it is not permitted. See *Crooms v. Schad*, 51 Fla. 168, 40 So. 497 (1906). As Trawick states: . . . The respondent cannot move to quash the order or to dismiss the petition. . . . This is the only civil proceeding in which the legal sufficiency of a pleading cannot be directly attacked or in which the parties are not limited to the issues raised in the pleadings. Trawick, Fla. Prac. & Proc., Sect. 36-6 (2003). Writs of habeas corpus do not require a petition that states a cause of action. Trawick, Fla. Prac. & Proc. Forms, Sect. 4-208.6 (2004). See also, *Langston v. Lundsford*, 122 Fla. 813, 165 So. 898 (1936); *Brown v. State*, 358 So.2d 16 (Fla. 1978). Trawick, Fla. Prac. & Proc. Chap 36 (2003). Any interpretation that supports an abolition of the writ of habeas corpus by Rule 9.100, Florida Rules of Appellate Procedure, or Rule 1.630, Florida Rules of Civil Procedure, and the substitution of an order to show cause or a requirement for a complaint, violates Article I, Section 13, Constitution of the State of Florida, and cannot be used

to prevent the issuance of the writ. See Trawick, Fla. Prac. & Proc., Sect. 36-6, n.12 (2003); Trawick, Fla. Prac. & Proc. Forms, Sect. 4-208.6 (2004).

In the instant case, Petitioner relies on the fact that the vehicle in which the deceased was shot was Petitioner's vehicle, which he determined to be stolen based on the location in which it was found. While there is no specific provision for protection of property, Petitioner further relies on Section 776.013, Fla. Stat. (2018), which provides:

Home protection; use of deadly force; presumption of fear of death or great bodily harm.

(1) A person is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or great bodily harm to another if:

(a) The person against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, a dwelling, residence, or occupied vehicle, or if that person had removed or was attempting to remove another against that person's will from the dwelling, residence, or occupied vehicle; and

(b) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.

Subsection (2) of the statute then sets out exceptions to the presumption in subsection (1). These exceptions include when: (a) the person against whom the force is used is a lawful resident or occupant of the residence or vehicle; (b) the person sought to be removed is a child or grandchild or someone otherwise in the lawful custody of the person against whom defensive force is used; (c) "[t]he person who uses defensive force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity ..."; and (d) the person against whom the force is used is a law enforcement officer. § 776.013(2)(a)-(d), Fla. Stat. (2018).

In the case at bar, Petitioner was rightly defending his property. The deceased R.A. was not in a place that he had a right to be. Therefore, the charges in the Indictment itself are excessive and Petitioner's detention is unlawful.

WHEREFORE, Petitioner demands a Writ of Habeas Corpus be issued requiring Respondents to deliver up and bring Petitioner before this Court so that the legality of his detention can be determined and that Petitioner can be discharged from custody. Other parties or organizations who may be involved in or may have been involved in the detention of Petitioner or who may be called upon to assist Respondents, should also be noticed with the Writ.

DONE: This 6th day of December 2019.

Respectfully submitted,

JAMES LEGAL SERVICES PLLC
8201 Peters Road, Suite 1000 | Plantation, FL 33324
P: 954-770-4984 | E: jameslegalfl@gmail.com

/s/ Josie K. James

JOSIE K. JAMES, ESQ.
Florida Bar No. 0021736
Attorney for Defendant

Attachments:

- (1) Petition for Simplified Dissolution of Marriage
- (2) Notice of Trial/Final Judgment
- (3) Notice to Clerk of Court of No Filing Fee
- (4) Proposed Writ for Court to Issue

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

FAMILY DIVISION FA
CASE NO. 50-2018-DR-001613-XXXX-MB

ROBERT FINNEY,
ROQUERIA TA'QUANDRIA MILLS,
Plaintiff/Petitioners.

ORDER SETTING FINAL HEARING

THIS CASE came before the Court upon a Notice for Trial having been filed by one of the parties. The Court finds that the case is at issue. Upon consideration

YOU ARE HEREBY ORDERED to appear for final hearing on:

MATTER: Final Hearing

DATE: April 13, 2018

TIME: 09:15 am

JUDGE: JANIS KEYSER

COURT ROOM: 6D

LOCATION: 205 N. Dixie Highway, West Palm Beach, FL 33401

You are directed to bring the following items to your Final Hearing:

1. A completed Testimony at Final Hearing form, which is attached as Exhibit A; (This form must be completed prior to appearing for your Final Hearing); and
2. Proof of residency in the State of Florida, reflecting a six month residency prior to the filing of the Petition. Proof of Residency includes the following:
 - a. A Florida driver's license, voters registration card, or identification card issued under Fla. Stat. §322.051, which reflects a six month residency prior to filing of the Petition, or
 - b. A witness who can testify to your residency in the State of Florida for at least 6 months prior to the filing of the Petition for Dissolution of Marriage.

If you fail to appear as ordered, your case may be dismissed, or other sanctions may be imposed.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida, this 8th day of March, 2018.



STATE OF FLORIDA - PALM BEACH COUNTY

I hereby certify that the foregoing is a true copy of the record in my office.

THIS 8th DAY OF June, 2018

SHARON R. BOCK
CLERK & COMPTROLLER

By [Signature]
DEPUTY CLERK

[Signature]
50-2018-DR-001613-XXXX-MB 03/08/2018
Janis Brustares Keyser, Judge

50-2018-DR-001613-XXXX-MB 03/08/2018
Janis Brustares Keyser
Judge

COPIES TO:

- ROBERT FINNEY 3000 POMEROL DR APT No E-mail Address Available
308
WELLINGTON, FL 33414
- ROQUERIA TA'QUANDRIA 3000 POMEROL DR APT No E-mail Address Available
MILLS 308
WELLINGTON, FL 33414

NOT A CERTIFIED COPY

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA**

Case No: 2018 DR 301613 ~~EXHIBIT~~ MB
Division: _____

Robert Finney III
Petitioner,

and

Roqueria Mills
Respondent.



Date of Birth Form for Unified Family Court

Instructions

Pursuant to Administrative Order 5.109, this form is to be completed and filed with the Clerk's Office in all new and reopened Unified Family Court ("UFC") cases. UFC case types include but are not limited to all family, juvenile, mental health, domestic violence and guardianship cases. A detailed list of UFC case types can be found in Administrative Order 5.101.

Sensitive Information in this document (month and day of birth/names of minors) will be redacted by the Clerk and will not be accessible by the general public.

Information

Petitioner's Name	<u>Robert Finney III</u>	Petitioner's D.O.B	<u>3/13/82</u>
Petitioner's Address	<u>3000 Pomeroy Dr APT 308</u>		
Respondent's Name	<u>Roqueria Mills</u>	Respondent's D.O.B	
Respondent's Address	<u>3000 Pomeroy Pr. APT 308</u>		
Child's Name		Child's D.O.B	
Child's Name		Child's D.O.B	
Child's Name		Child's D.O.B	
Child's Name		Child's D.O.B	
Child's Name		Child's D.O.B	

*Please attach an additional page for additional Party or Child

Filed by: Robert Finney III
Type/Print your name



STATE OF FLORIDA - PALM BEACH COUNTY

I hereby certify that the foregoing is a true copy of the record in my office.

THIS 8th DAY OF June, 2018

SHARON R. BOCK
CLERK & COMPTROLLER

By: [Signature]
DEPUTY CLERK

15th Judicial Circuit- Date of Birth Form for Unified Family Court

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

Case No. **2018 OR 001613 MB**
Division: _____

Robert Finney III
Husband,
and
ROQUERIA T. Mills
Wife.



PETITION FOR SIMPLIFIED DISSOLUTION OF MARRIAGE

We, {full legal name} Robert Finney III, Husband,
and {full legal name} ROQUERIA TA' QUANDRIA Mills, Wife,
being sworn, certify that the following information is true:
[fill in all blanks]

1. We are both asking the Court for a dissolution of our marriage.
2. Husband lives in {name} PALM BEACH County, {state} Florida, and has lived there since {date} March 13, 2002. Wife lives in {name} Palm Beach County, {state} Florida, and has lived there since {date} 8/11/1997.
3. We were married to each other on {date} 8/8/2016 in the city of {city} WEST PALM BEACH in state of {state} Florida, or country of {country} _____.
4. Our marriage is irretrievably broken.
5. We do not have any minor or dependent children together, the wife does not have any minor or dependent children born during the marriage, and the wife is not pregnant.
6. We have divided our assets (what we own) and our liabilities (what we owe) by agreement. We are satisfied with this agreement.

{Check one only}

- () Our marital settlement agreement, Florida Family Law Rules of Procedure Form 12.902(f)(3), is attached. This agreement was signed freely and voluntarily by each of us and we intend to be bound by it.
- (X) Our marital settlement agreement is not in writing. We prefer to keep our financial agreements private.

7. {Check one only} () yes () no Wife wants to be known by her former name, which was (full legal name) ROQUERIA TA'QUANORA MILLS.
8. We each certify that we have not been threatened or pressured into signing this petition. We each understand that the result of signing this petition may be a final judgment ending our marriage and allowing no further relief.
9. We each understand that we both must come to the hearing to testify about the things we are asking for in this petition.
10. We understand that we each may have legal rights as a result of our marriage and that by signing this petition we may be giving up those rights.
11. We ask the Court to end our marriage and approve our marital settlement agreement.

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this petition and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated: 2/21/18

[Signature]
 Signature of HUSBAND
 Printed Name: Robert Finney III
 Address: 3000 POMEROY DR APT 308
 City, State, Zip: Wellington FL 33414
 Telephone Number: 561 755 0257
 Fax Number: _____
 E-mail Address(es): rfinney313@gmail.com

STATE OF FLORIDA COUNTY OF W. PALM BEACH

Sworn to or affirmed and signed before me on 2/21/18 by Robert Finney III



[Signature]
 NOTARY PUBLIC or DEPUTY CLERK

GINDY MCCARDE

[Print, type, or stamp commissioned name of notary or deputy clerk.]

Personally known
 Produced identification
 Type of identification produced FLID

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

ROBERT FINNEY III
Petitioner

CASE NO:
JUDGE:

v.

RIC BRADSHAW,
the Sheriff of Palm Beach County,
Respondent.

NOTICE TO THE CLERK OF COURT:

NO FEE FOR FILING

Notice is hereby given to the Clerk of Court that Section 394.459(8)(d), Florida Statutes (copy attached), prohibits you from charging a fee for the filing of this Petition for Writ of Habeas Corpus. Section 394.459(8)(d), Florida Statutes, states:

(8) HABEAS CORPUS.—

(a) At any time, and without notice, a person . . . may petition for a writ of habeas corpus to question the cause and legality of such detention and request that the court order a return to the writ in accordance with chapter 79...

(d) No fee shall be charged for the filing of a petition under this subsection.

DONE: This 6th day of December 2019.

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

ROBERT FINNEY III
Petitioner

CASE NO:
JUDGE:

v.

RIC BRADSHAW,
the Sheriff of Palm Beach County,
Respondent.

_____ /

WRIT OF HABEAS CORPUS

THE STATE OF FLORIDA

TO: PALM BEACH COUNTY SHERIFF

YOU ARE COMMANDED to have the body of ROBERT FINNEY III, currently being detained by you, together with the time and cause of the detention, by whatever name ROBERT FINNEY III shall be called, delivered before me at the Palm Beach County Courthouse in West Palm Beach, Florida, Room 11F, 401 North Dixie Highway, West Palm Beach, Florida 33401, immediately after being served with this writ or at _____ A.M./P.M. on the _____ day of _____, 20____, to do what shall then and there be considered concerning the detention, and that you have with you a copy of this writ.

IT IS FURTHER ORDERED that the Sheriff of Palm Beach County is hereby commanded to assist counsel for Petitioner ROBERT FINNEY III by all lawful means necessary to obtain the body of ROBERT FINNEY III and to deliver it before me with all urgency, as well as to serve this Writ.

ORDERED at West Palm Beach, Palm Beach County, Florida, on _____, 2019.

JUDGE, CIRCUIT COURT