

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT  
IN AND FOR DAYTONA BEACH, VOLUSIA COUNTY, FLORIDA

THE STATE OF FLORIDA

-v-

CASE No. 2021 303222 CFDB

NICOLE JACKSON MALDONADO

Defendant

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**PETITION FOR WRIT OF HABEAS CORPUS**  
**and**  
**TO REMOVE DEFENDANT FROM SOLITARY CONFINEMENT**

**COMES NOW**, the Defendant Nicole Jackson Maldonado in pro se in the above cause and pleads with this court to order the Jailer's at Volusia County Jail annex to place the Defendant back in her normal cell and out of solitary confinement for the reasons that follow:

1. In June of 2021 Defendant (a 15-year-old juvenile) was arrested and charged as an adult then handed over to the Volusia County jail. For the first 7 to 8 months Defendant was placed in solitary confinement without any reason other than there was "NO ROOM" in the juvenile area to place her.
2. There was no Hearing regards this solitary placement as per the requirements of the law.
3. In addition, Defendant was never given outside recreation nor any inside recreation. Covid 19 was the jails excuse to keep Defendant from any recreation. (Which is not a legal answer)
4. Defendant was only allowed out of her cell for showers. Defendant begged her Public Defender Lawrence Avallone to help get her out and was told by MR. Avallone there "was nothing he could do"

**CURRENT SITUATION.**

1. In or around December 19<sup>th</sup> the Defendant was again placed in solitary confinement for same reasons as given above. The jailers have stated that "THERE IS NO ROOM" to place Defendant in the juvenile area as that is filled with adults. This is not legal defense.
2. Defendant at this time has not been informed when this solitary time will end which leaves the question: How long will Defendant actually remain in solitary.
3. Once again Defendant is not being given ant recreation time inside or out.

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4. Again, Defendant has begged her Public Defender Lawrence Avallone to do something about it and his answer was, he can't.
5. The Defendant was never given a proper Hearing as to this solitary punishment as per the law.
6. Due to Defendant's Public Defender not assisting in this matter and the fact the jailers do not respond to Defendant's requests, forces the Defendant to turn to this court and order Defendant's removal from solitary and back into a normal cell situation.
7. Defendant has no access to books, magazines, T.V. Or any of the comforts" afforded her when in a normal cell situation.
8. In summation of the facts presented the Defendant needs to remind the jailers that she is a pretrial detainee and has not been convicted of any crime.

In support of Defendant's motion, she submits the following case studies in support.

### STATEMENT OF LAW

Defendant cites the following rule and submitts those pertinent parts for this court's consideration.

**Fla. Admin. Code R. [REDACTED]**

**(1) Definition:**

**(a) Administrative Confinement** - refers to the temporary separation of an inmate from inmates in general population in order to provide for security and safety until such time as a more permanent inmate management decision process can be concluded, such as a referral to disciplinary confinement, close management, protective management, or a transfer.

**(i) Major Rule Violation:**

(Defendant states she was placed in solitary for no violation other than the jail is overcrowded )

**(2) Procedures for Placement in Administrative Confinement.**

**(a) Administrative confinement** is a temporary confinement status that may limit conditions and privileges as provided in subsection (5) of this rule as a means of promoting the security, order and effective management of the institution. Otherwise, the treatment of inmates in administrative confinement shall be as near to that of inmates in general population as assignment to administrative confinement shall permit. Any deviations shall be fully documented as set forth in the provisions of this rule.

**(b) When a decision is made to place an inmate in administrative confinement, the reason for such placement shall be explained to the inmate and the inmate shall be given an opportunity to**

present verbal comments on the matter. The inmate shall also be allowed to submit a written statement. Prior to placing the inmate in administrative confinement, the inmate shall be given a pre-confinement health assessment, including a physical and mental health evaluation that shall be documented in the inmate's health care record. Inmates shall be weighed upon admission to administrative confinement, at least once a week while in administrative confinement, and upon leaving administrative confinement. The weight of the inmate shall be recorded on Form DC6-229, Daily Record of Special Housing. Form DC6-229 is incorporated by reference in Rule [REDACTED] F.A.C.

**(3) Reasons for Placement in Administrative Confinement with Time Limits. Placement of an inmate in administrative confinement is authorized for the following reasons:**

(a) Disciplinary charges are pending and the inmate needs to be temporarily separated from inmates in general population in order to provide for security or safety until such time as the disciplinary hearing is held. A senior correctional officer or above shall have the authority to place an inmate in administrative confinement for this reason. The length of time spent in administrative confinement for this reason shall not exceed seven working days unless the ICT authorizes an extension of five working days. This extension shall be documented on Form DC6-229, Daily Record of Special Housing

(b) Outside charges are pending against the inmate and the presence of the inmate in the general population would present a danger to the security or order of the institution.

(c) Inmates shall be placed in administrative confinement pending review of the inmate's request for protection from other inmates.

(Defendant does not fall into any of these categories)

Defendant also wishes to submit the following. Though the below proposed rule has yet to come before Congress the House regards this issue as an important one (see: in part)

**H. R. 176**

To amend title 18, United States Code, to impose conditions on the use of solitary confinement in Federal prisons, and for other purposes

**IN THE HOUSE OF REPRESENTATIVES**

January 4, 2021

**§ 4015. Solitary confinement**

“(a) In general. —Any placement of an inmate in solitary confinement shall comply with the following:

“(1) An inmate shall not be placed in solitary confinement unless there is reasonable cause to believe that—

“(A) the inmate would create a substantial risk of immediate serious harm to another, as evidenced by recent threats or conduct; and

“(B) a less restrictive intervention would be insufficient to reduce this risk.

The correctional facility shall bear the burden of establishing this standard by clear and convincing evidence before any agency review. An inmate who would create a substantial risk of immediate serious harm to self, or who create a substantial risk of immediate serious harm to another because of a medical reason shall be placed in an appropriate medical facility.

“(2) An inmate shall not be placed in solitary confinement for non-disciplinary reasons.

“(3) An inmate shall not be placed in solitary confinement before receiving a personal and comprehensive medical and mental health examination conducted by a clinician. A preliminary examination shall be conducted by a member of the medical staff within 12 hours before confinement and the clinical examination shall be conducted within 48 hours of confinement.

“(4) An inmate shall only be held in solitary confinement pursuant to initial procedures and reviews which provide timely, fair and meaningful opportunities for the inmate to contest the confinement in such an administrative proceeding as the Director shall establish. These procedures shall include—

Defendant states that such Bill goes on in it creating meaningful requirements to place a person in solitary. The foundation of this Bill has been supported in case after case throughout the court system. The bottom line is the Defendant has done nothing as far as disciplinary actions and is in solitary for the sole reason of there is nowhere else to put her.

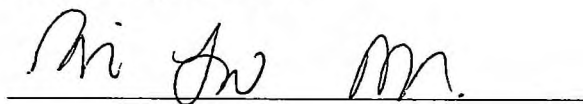
Defendant states that none of the above language was demonstrated in her case. Because Defendant is still in solitary, she has no alternative to request this court to take action.

Defendant closes out her petition with citations of Florida case law that supports her position before this court. When it comes to rules regarding the placement of inmates into any type of segregation the rules matter and must be followed.

SEE: Clark v Wainwright 490 So. 2D 1055 (Fla 1<sup>ST</sup> . DCA 1986) and Granger v Florida State Prison, 424 So.2d. 937 ( Fla 1st DCA 1983)

WHEREFORE the Defendant Hopes and Prays that this Honorable Court grant the above petition for Writ of Habeas Corpus

Respectfully submitted



Nicole Jackson Maldonado

**CERTIFICATION OF SERVICE**

I Nicole Jackson Maldonado do hereby certify that a true and correct set of copies have been hand delivered by Jean Baily Notary Public to the Clerk of the court to be filed as well as the following;

Public Defenders office located at:

251 North Ridgewood Avenue  
Daytona Beach, Florida 32114

Attn: Lawrence Avallone

State Attorney's Office located at:

251 N Ridgewood Ave # 300,  
Daytona Beach, FL 32114

Attn: Sara Thomas

The Daytona Beach Jail Annex Located at :  
1300 Red John Dr, Daytona Beach, FL 32124

Attn: Steven Smith

On this 29<sup>th</sup> day of December 2022.



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Nicole Jackson Maldonado

Notarized Oath

STATE OF FLORIDA

COUNTY OF VOLUSIA

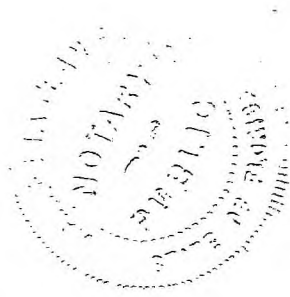
Before me, the undersigned authority, this day personally appeared Nicole Jackson Maldonado, who first being duly sworn, says that she is the defendant in the above-styled cause, that she has read the foregoing petition for Writ of Habeas Corpus and has personal knowledge of the facts and matters therein set forth and alleged and that each and all of these facts and matters are true and correct.

Nicole Jackson Maldonado

Nicole Jackson Maldonado

SWORN AND SUBSCRIBED TO before me on Dec. 29<sup>th</sup>, 2022

Wannetta Jean Bailey  
NOTARY PUBLIC



Personally known Under penalties of perjury, I declare that I have read the foregoing motion and that the facts stated in it are true.

Wannetta Jean Bailey