

IN THE COUNTY COURT OF THE SEVENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR VOLUSIA COUNTY
CRIMINAL DIVISION

STATE OF FLORIDA,

v.

Case No.: 2021-303222-CFDB

NICOLE MARIE JACKSON-MALDONADO,
Defendant.

Division: "40"

_____/ **NOTICE OF INQUIRY**

COMES NOW, Defendant, NICOLE MARIE JACKSON-MALDONADO, through undersigned Counsel, and respectfully filed this Notice to request an update from this Honorable Court on the delay in ruling on the Defendant's Motion for Postconviction Relief, and in support of this Notice would state as follows:

1. On February 26, 2025, Defendant, through undersigned Counsel, filed a Motion for Postconviction Relief currently pending before the Court.
2. As of that date of this inquiry, it has been 378 days since Defendant filed her Motion without Order from the Court.
3. In support of this Notice, Defendant would provide the following precedent as to what the Courts have determined to be a "reasonable time" to rule on a postconviction motion:
4. In *Deboles v. State*, 960 So. 2d 899 (Fla. 5th DCA 2006), that Court stated that a petition for writ of mandamus is the appropriate vehicle to compel a trial court to rule on a motion or petition within a reasonable time. See *Lewis v. State*, 934 So. 2d 605 (Fla. 5th DCA 2006); *Matthews v. Circuit Court*, 515 So. 2d 1065 (Fla. 5th DCA 1987).
5. In *Walden v. State*, 905 So.2d 1045 (Fla 1st DCA 2005) the Court found the delay on ruling on an Amended Motion to Correct Illegal Sentence of one year was "unreasonable and a writ of mandamus [was] appropriate in the circumstances".

6. In *Moore v. Kaplan*, 640 So. 2d 199 (Fla 4th DCA 1994), the Court granted a writ of mandamus after a year had passed without an order disposing of the Motion. The Court found that this delay was unreasonable “[b]ecause a failure to act on the motion results in an inappropriate delay concerning petitioner's appellate rights, [therefore] we are compelled to grant the petition for writ of mandamus. *McBride v. State*, 443 So. 2d 416 (Fla. 4th DCA 1984); *Benczo v. Korda* 528 So. 2d 555 (Fla. 4th DCA 1988). See also *Barroso v. State*, 19 So.3d 441 (Fla. 5th DCA 2009) (“As the rule 3.850 motion has been pending for over a year, Barroso has established an unreasonable delay in obtaining a ruling on his postconviction motion.”) citing *Feliciano v. State*, 994 So. 2d 425 (Fla. 5th DCA 2008) and *Aumiller v. State*, 988 So. 2d 1239 (Fla. 5th DCA 2008).
7. In *Deboles*, the Petitioner sought mandamus relief after more than two years had elapsed from the filings of his Motion for Postconviction Relief when the Court had failed to respond to Petitioner’s motions entitled "review, hear and rule" and "Notice of Intent to Mandamus”. *Id* at 900. The Fifth District Court of Appeals found that “[w]hile we are loath to interfere with a trial judge's management of his or her docket," we are concerned that the failure to rule on the motion filed by Mr. Deboles so long ago might impair his right of access to the courts. See *Lewis*, 934 So. 2d at 605-06. Accordingly, we feel compelled to issue the writ of mandamus. See *McBride v. State*, 443 So. 2d 416 (Fla. 4th DCA 1984).

WHEREFORE, Defendant, through undersigned counsel, respectfully requests an update from the Honorable Court as to the delay in issuing an Order on Defendant’s February 26, 2025, Motion for Postconviction Relief.

Respectfully submitted,

//S// Dan Ripley

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was emailed via the State of Florida E-filing portal to the Volusia County Office of the State Attorney on this the 11th day of March 2025.

Respectfully Submitted,

//S// Dan Ripley
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