

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

DAVID I. EPPS,

Appellant,

v.

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

CASE NO. 1D09-2433

WALTER A. MCNEIL,
SECRETARY, FLORIDA
DEPARTMENT OF
CORRECTIONS,

Appellee.

/

Opinion filed June 9, 2010.

An appeal from the Circuit Court for Union County.
Frederick D. Smith, Judge.

David I. Epps, pro se, Appellant.

Bill McCollum, Attorney General, and Anne C. Conley, Assist Attorney General, Tallahassee, for Appellee.

PER CURIAM.

Appellant argues that his sentence is illegal and, accordingly, that his petition for writ of habeas corpus must be granted to correct a manifest injustice. Because the petition was not filed in the sentencing court, the circuit court lacked jurisdiction to address his claim on the merits. See Crockett v. Singletary, 723 So.

2d 911, 912 (Fla. 1st DCA 1999). Accordingly, we affirm the dismissal of Appellant's petition for writ of habeas corpus, which was without prejudice to his right to seek relief in the sentencing court. See Zuluaga v. State, Department of Corrections, 35 Fla. L. Weekly D676 (Fla. 1st DCA March 25, 2010) (affirming the dismissal of a petition for writ of habeas corpus where the petitioner challenged the legality of his sentence and the circuit court's dismissal was without prejudice to the petitioner's right to seek proper relief in the sentencing court); cf. Davis v. State, 26 So. 3d 647, 650 (Fla. 2d DCA 2010) (reversing and remanding for transfer where the circuit court denied an apparently meritorious petition for writ of habeas corpus without indicating that it could be re-filed in the appropriate court).

AFFIRMED.

WEBSTER, LEWIS, and ROBERTS, JJ., CONCUR.