

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2010

BRIAN ELVIS RIGBY,

Petitioner,

v.

CASE NO. 5D10-626
CORRECTED

STATE OF FLORIDA,

Respondent.

_____ /

Opinion filed March 2, 2010

Petition for Writ of Habeas Corpus,
A Case of Original Jurisdiction.

Robert Wesley, Public Defender,
and Jamie David Parker Kane,
Assistant Public Defender,
Kissimmee, for Petitioner.

Bill McCollum, Attorney General,
Tallahassee and Douglas T. Squire,
Assistant Attorney General,
Daytona Beach, for Respondent.

PER CURIAM.

Brian Elvis Rigby files an emergency petition for writ of habeas corpus after the trial court denied bond without considering the applicable standards. The State files a limited concession that neither the arrest warrant, nor the order of probable cause determination explain the denial of bond. Rigby has been charged with a second degree felony, which is neither a capital offense nor a life felony. By all accounts, the requirements of Florida Rule of Criminal Procedure 3.131 have not been met. As such,

we grant the petition and remand the case to the trial court for purposes of holding a hearing forthwith to consider the Petitioner's request to set bond. See Vailbailon v. Bradshaw, 971 So. 2d 289 (Fla. 4th DCA 2008).

PETITION GRANTED and REMANDED WITH INSTRUCTIONS.

ORFINGER, TORPY and COHEN, JJ. concur.