

**SIXTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA**

Case No. 6D2026-0749
Lower Tribunal No. 2019-MM-006732

JUAN ANTONIO CANTRELL,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

Petition for Writ of Prohibition to the County Court for Orange County.

September 18, 2026

WOZNIAK, J.

Petitioner Juan Cantrell seeks a writ of prohibition,¹ contending that the two-year statute of limitations expired on his misdemeanor battery charge, and thus, the trial court should have granted his pre-trial motion to dismiss. Because the State did not present sufficient evidence that it had undertaken a diligent search for Cantrell

¹ See generally *Reino v. State*, 352 So. 2d 853 (Fla. 1977) (reviewing, by petition for writ of prohibition, claim that prosecution was barred by statute of limitations), *receded from on other grounds by Perez v. State*, 545 So. 2d 1357 (Fla. 1989).

that would have excused its failure to commence prosecution within the requisite limitations period, we grant the Petition.

On August 9, 2019, Cantrell was charged with the April 30, 2019, commission of a first-degree misdemeanor battery. The State had two years from the commission date in which to commence prosecution. § 775.15(2)(c), Fla. Stat. (2019) (“A prosecution for a misdemeanor of the first degree must be commenced within 2 years after it is committed.”). Prosecution, where the defendant has not previously been arrested or served with a summons, “is commenced when either an indictment or information is filed, provided the capias, summons, or other process issued on such indictment or information is executed *without unreasonable delay*.” § 775.15(4)(b), Fla. Stat. (emphasis added).

After the State’s unsuccessful attempts at serving a summons on Cantrell, a capias warrant was executed on November 26, 2025—six years and seven months after the alleged crime took place. Cantrell moved to dismiss, arguing that prosecution had not commenced within the time frame required by section 775.15 because the capias warrant had not been executed without unreasonable delay as the State had failed to demonstrate due diligence in its search for him. Cantrell noted that he had been in the Orange County Jail for at least 202 days during this period and that he had successfully been served with two arrest warrants in other cases during this time. The State responded that it had attempted five times in the

intervening six years to serve Cantrell and argued that the number of times it had attempted service demonstrated the diligence with which it had searched. The State presented no witnesses or evidence to support its argument.

A trial court's denial of a motion to dismiss due to the expiration of the statute of limitations is subject to a writ of prohibition if the trial court's findings supporting the denial are not supported by competent, substantial evidence. *Persaud v. State*, 408 So. 3d 7, 9 (Fla. 4th DCA 2025).²

The State presented no evidence that it had conducted a diligent search; indeed, it presented no evidence of the steps it had taken to locate Cantrell. *See Mackey v. State*, 333 So. 3d 775, 779 (Fla. 1st DCA 2022) ("In proving the diligence required to show a reasonable delay in the service of a *capias*, the State must show that it investigated leads and checked obvious sources of information."); *Norton v. State*, 173 So. 3d 1124, 1128 (Fla. 2d DCA 2015) ("The State argues that these four attempts to contact Ms. Norton demonstrated its diligence, but this overlooks the

² We note that Cantrell posits that it is the State's burden in the trial court to prove by competent, substantial evidence that the prosecution is not time barred; however, this characterization conflates the burden of proof with an appellate standard of review. *See Rollins v. Rollins*, 336 So. 3d 1241, 1243 (Fla. 5th DCA 2022) (observing that the burden of evidentiary proof in a trial court proceeding is a distinct concept from the legal requirement that the trial court's findings of fact be sustained by an appellate court if supported by competent, substantial evidence; cautioning that "[a] party's burden of proof in the trial court is not to be confused with the standard by which an appellate court reviews a trial court's decision based on a finding of fact").

fact that the State must also exercise diligence in searching obvious sources of public information that could provide a lead.”). Because the State failed to adduce evidence demonstrating that it acted without unreasonable delay, the trial court should have granted the motion to dismiss.

We thus grant the Petition but withhold issuance of the writ, confident that the trial court will dismiss this action.

PETITION GRANTED; ISSUANCE OF WRIT WITHHELD.

MIZE and BROWNLEE, JJ., concur.

Melissa Vickers, Public Defender, and Johannah Flerlage Brown, Assistant Public Defender, Orlando, for Petitioner.

James Uthmeier, Attorney General, Tallahassee, and Rebecca Rock McGuigan, Bureau Chief, Daytona Beach, for Respondent.

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