

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

JANUARY TERM 2011

MANUEL CRIOLLO,

Petitioner,

v.

CASE NO. 5D10-3597

BARBARA J. CRIOLLO,
N/K/A BARBARA J. LANGELLA,

Respondent.

_____ /

Opinion filed February 4, 2011

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

Cheri A. Russell and Mark D. Shelnett of
Mark D. Shelnett, P.A., Ocala, for Petitioner.

No Appearance for Respondent.

PER CURIAM.

Manuel Criollo petitioned the court for habeas corpus relief, asserting that he was entitled to immediate release from incarceration imposed for contempt. We agree with Petitioner and order his release.¹

Petitioner was held in civil contempt for failing to pay child support arrearages and alimony due in the amount of \$66,615.45. The trial court ordered Petitioner incarcerated for a period of one hundred days for the contempt, with a purge amount equal to the full sum owed. After reviewing the transcript of the hearing on the motion,

¹ Petitioner was released by order November 9, 2010 with this opinion to follow.

this court determines that the evidence presented did not support the finding that the petitioner had the present ability to pay the purge amount. Release is therefore mandated, and the order of contempt is appropriately vacated. See Fla. Fam. L. R. P. 12.615(e).

PETITION GRANTED.

LAWSON, EVANDER and COHEN, JJ., concur.