

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

DAVID MINCEY,

Appellant,

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

v.

CASE NO. 1D04-2872

JAMES V. CROSBY,

Appellee.

_____ /

Opinion filed October 25, 2004.

An appeal from the Circuit Court for Leon County.

P. Kevin Davey, Judge.

Appellant, pro se.

Charlie Crist, Attorney General, and Louis A. Vargas, General Counsel,
Department of Corrections, Tallahassee, for Appellee.

PER CURIAM.

Upon consideration of the appellant's response to the Court's order of July 19, 2004, the Court has concluded that the order on appeal is not final. Specifically, although the Department of Corrections' counterclaim for reimbursement of incarceration costs is unrelated to the pending medical malpractice suit, the order on appeal does not represent a final adjudication of the counterclaim because the issue of

the total amount of damages due remains pending. See Hernando County v. Leisure Hills, Inc., 648 So. 2d 257 (Fla. 5th DCA 1994). Accordingly, the appeal is hereby dismissed for lack of jurisdiction.

DAVIS, BROWNING and HAWKES, JJ., CONCUR.