

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

KENNETH LEE STARLING,

Appellant,

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

v.

CASE NO.: 1D06-4549

FLORIDA PAROLE COMMISSION,

Appellee.

_____ /

Opinion filed April 19, 2007.

An appeal from the Circuit Court for Hamilton County.
John W. Peach, Judge.

Kenneth Lee Starling, pro se, Appellant.

Kim Fluharty, General Counsel, and Anthony Andrews, Assistant General, Counsel,
Florida Parole Commission, Tallahassee, for Appellee.

PER CURIAM.

The circuit court's order denying Kenneth Lee Starling's petition for writ of habeas corpus on the grounds that he should have sought relief by filing a petition for writ of mandamus is REVERSED. Richardson v. Fla. Parole Comm'n, 924 So. 2d 908, 910 (Fla. 1st DCA 2006)(stating that inmate may seek review of a Commission

order revoking conditional release "by petitions for habeas corpus or mandamus filed in the circuit court."). Upon remand, Starling should be given an opportunity to amend his petition for writ of habeas corpus to add an allegation that his conditional release was unlawfully revoked based upon the violation of a curfew condition which is imposed for crimes "committed on or after October 1, 1995," section 947.1405(7)(a), Florida Statutes (2006), and his offense took place several years before that date. See King v. Fla. Parole Comm'n, 898 So. 2d 1100 (Fla. 1st DCA 2005).

REVERSED and REMANDED for further proceedings consistent with this opinion.

WOLF, VAN NORTWICK, AND LEWIS, JJ., CONCUR.