

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

GRADY M. KITTRELL,

Petitioner,

v.

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

CASE NO. 1D09-3164

STATE OF FLORIDA,

Respondent.

Opinion filed February 5, 2010.

Petition for Writ of Mandamus -- Original Jurisdiction.

Grady M. Kittrell, pro se, Petitioner.

Bill McCollum, Attorney General, and Trisha Meggs Pate, Assistant Attorney
General, Tallahassee, for Respondent.

PER CURIAM.

Petitioner seeks a writ of mandamus to compel the circuit court to rule on a
pending motion for post-conviction relief. We grant the petition.

The motion for post-conviction relief and amendments have been pending for almost one year. The circuit court denied the motion in part and directed the State Attorney to file a response within 30 days to address the remaining claims. However, more than 90 days have elapsed and the state has not filed a response below. Accordingly, the petition for writ of mandamus is granted. Within 60 days, the circuit court is directed to either issue a final order disposing of all claims raised in the post-conviction motion or conduct an evidentiary hearing. Because we are confident that the circuit court will promptly comply with the ruling of this court, we withhold formal issuance of the writ. Golden v. Florida Dep't of Corr., 739 So. 2d 1273 (Fla. 1st DCA 1999).

PETITION GRANTED.

WEBSTER, PADOVANO, and ROWE, JJ., CONCUR.