

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

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

DEPARTMENT OF CORRECTIONS,

Petitioner,

v.

Case No. 5D15-3734

JOHNNY AYALA AND STATE OF  
FLORIDA,

Respondents.

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Opinion filed December 18, 2015

Petition for Certiorari Review of Order  
from the Circuit Court for Orange County,  
Timothy R. Shea, Judge.

Barbara Debelius, Assistant General  
Counsel, Department of Corrections, for  
Petitioner.

Robert Wesley, Public Defender, and  
Benjamin L. Jones, Assistant Public  
Defender, Orlando, for Respondent, John  
Ayala.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Rebecca Rock  
McGuigan, Assistant Attorney General,  
Daytona Beach, for Respondent, State of  
Florida.

EVANDER, J.

The Department of Corrections (“DOC”) seeks certiorari review of a sentencing order that directs it to have the defendant below, Johnny Ayala, serve the initial part of his eight-year prison sentence at the “Avon Park Rehab Facility.” We grant the petition.

Certiorari jurisdiction extends to the review of a circuit court order that violates the separation of powers doctrine. *See Dep't of Child. & Fams. v. K.R.*, 946 So. 2d 106, 107 (Fla. 5th DCA 2007) (“Because we conclude that the order in question violates the separation of powers doctrine, and thus departed from the essential requirements of law, we grant certiorari relief.”); *Dep't of Corr. v. Grubbs*, 884 So. 2d 1147, 1147 (Fla. 2d DCA 2004) (“DOC, a nonparty to the criminal proceeding, filed a petition for writ of certiorari in this court seeking relief from the trial court’s order. We have jurisdiction because DOC’s nonparty status deprives it of an adequate remedy by direct appeal.”).

Here, the trial court’s order violates the separation of powers doctrine because the trial court lacked the authority to regulate the placement of a sentenced defendant in the prison system. *See Dep't of Corr. v. Mikle*, 855 So. 2d 1279, 1280 (Fla. 3d DCA 2003); *Singletary v. Acosta*, 659 So. 2d 449, 450 (Fla. 3d DCA 1995). Accordingly, we grant DOC’s petition for writ of certiorari, quash the trial court’s September 28, 2015, sentencing order, and remand for resentencing.

PETITION FOR WRIT OF CERTIORARI GRANTED.

WALLIS and LAMBERT, JJ., concur.