

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

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

GLENN SMITH,

Appellant,

v.

CASE NO. 1D04-3249

FLORIDA DEPARTMENT OF  
CORRECTIONS,

Appellee.

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Opinion filed September 2, 2005.

An appeal from Circuit Court for Leon County.  
L. Ralph Smith, Judge.

Glenn Smith, Pro Se.

Charlie Crist, Attorney General, and Joy A. Stubbs, Assistant Attorney General,  
Tallahassee, for Appellee.

PER CURIAM.

The appellant challenges the order by which the circuit court denied his claims for a declaratory judgment and mandamus relief. We conclude that the circuit court properly denied declaratory relief, and the appellant has failed to demonstrate an

entitlement to relief on second-tier review of disciplinary proceedings against the appellant for disobeying a verbal order. But the appellant is entitled to mandamus relief compelling the appellee to follow its own rules requiring that the warden personally make the decision to approve, return, or deny grievances of reprisal and grievances involving disciplinary action filed directly with the warden. See Fla. Admin. Code R. 33-103.002(15)(e), 33-103.006(3), & 33-103.015(3); Rivera v. Moore, 825 So. 2d 505 (Fla. 1st DCA 2002). Accordingly, that portion of the order by which the circuit court denied the appellant's claim for relief pursuant to the above-described rules is reversed, but the order is otherwise affirmed.

ALLEN, LEWIS and HAWKES, JJ., CONCUR.