

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

TIMOTHY HOWARD,

Petitioner,

v.

CASE NO. 1D04-5246

JESSICA GUERRA,

Respondent.

Opinion filed July 20, 2005.

Petition for writ of certiorari--original jurisdiction.

Petitioner, pro se.

R. Craig Hemphill, Department of Revenue, Jacksonville, for respondent.

WOLF, J.

We determine the trial court erred in denying petitioner's request to quash a writ of bodily attachment based on petitioner's failure to appear. Petitioner was incarcerated and had a pending request to appear by telephone which had not been ruled on. See Johnson v. Johnson, 783 So. 2d 326, 327 (Fla. 1st DCA 2001). The

petition for writ of certiorari is granted and the order of the trial court is quashed. The trial court shall conduct further proceedings on petitioner's request to quash the writ of bodily attachment.

ALLEN and BENTON, JJ., CONCUR.