

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

JOHN GRAHAM,

Petitioner,

v.

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

CASE NO. 1D04-5311

JOHN RUTHERFORD, as Sheriff of
Duval County, and the Jacksonville
Sheriff's Office,

Respondents.

Opinion filed May 18, 2005.

Petition for Writ of Mandamus -- Original Jurisdiction.

John Graham, pro se, petitioner.

Charlie Crist, Attorney General, and Tracy Lee Cooper, Assistant Attorney General,
Tallahassee, for respondents.

PER CURIAM.

John Graham filed a replevin complaint in the Circuit Court for Duval County.

The case was transferred to county court. After the passage of time without action on

the complaint, a mandamus petition was then filed by Graham in this court to compel a resolution by the trial court. The mandamus petition was assigned case number 1D03-5222, but then transferred to the circuit court, the proper forum. See Fla. R. App. P. 9.030(c)(1)(A) and (3); §26.012(1), Fla. Stat.; Johnson v. Florida Parole and Probation Comm’n, 543 So. 2d 875 (Fla. 4th DCA 1989), disapproved on other grounds, Sheley v. Florida Parole Comm’n, 720 So. 2d 216 (Fla. 1998).

Graham now petitions this court for a writ of mandamus to compel action by the circuit court on the mandamus petition pending there. In response to an order to show cause, this court has been informed that the circuit court mandamus petition was misfiled and not assigned a case number. This appears to be a circumstance where issuance of the writ is appropriate. See Kramp v. Fagan, 568 So. 2d 479 (Fla. 1st DCA 1990).

We therefore grant the petition and direct the Circuit Court for Duval County to forthwith process the mandamus petition which was transferred there by this court’s order of January 26, 2004, in case number 1D03-5222. We direct the circuit court’s attention to Quigley v. Satz, 596 So. 2d 753 (Fla. 4th DCA 1992) for guidance in handling Graham’s mandamus petition.

PETITION GRANTED.

BARFIELD, DAVIS and HAWKES, JJ., concur.