

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

CLYDE DUNCAN,

Petitioner,

v.

FLORIDA PAROLE COMMISSION,

Respondent.

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

CASE NO. 1D06-0889

Opinion filed October 5, 2006.

Petition for Writ of Certiorari -- Original Jurisdiction.

Clyde Duncan, pro se, Petitioner.

Kim M. Fluharty, General Counsel, and Susan Schwartz, Assistant General Counsel,
Florida Parole Commission, Tallahassee, for Respondent.

PER CURIAM.

Clyde Duncan seeks review of an order summarily denying his petition for writ
of habeas corpus, in which he challenged the revocation of his conditional release

supervision. We conclude that although inartfully pled, the petition was sufficient to state a preliminary basis for relief with respect to petitioner's claim that although he admitted to the alleged violations, those violations were not willful and substantial, and thus did not justify the revocation of supervision. See Ellis v. Fla. Parole Comm'n, 911 So. 2d 831 (Fla. 1st DCA 2005) (in order to establish a violation it must be proven that the releasee willfully violated a substantial condition of release). Under these circumstances, the circuit court's failure to issue an order to show cause before entertaining the merits of petitioner's claims constitutes a departure from the essential requirements of law. See Duckworth v. Dep't of Corr., 867 So. 2d 550 (Fla. 1st DCA 2004). Accordingly, the order summarily denying Duncan's petition for writ of habeas corpus is quashed, and the matter is remanded to the circuit court for further proceedings consistent herewith.

WOLF, LEWIS, and THOMAS, JJ., CONCUR.