

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

DREW C. HARTLEY,

Petitioner,

v.

JAMES R. McDONOUGH, Secretary,  
Florida Department of Corrections,

Respondent.

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

CASE NO. 1D06-1167

Opinion filed June 9, 2006.

Petition for Writ of Mandamus -- Original Jurisdiction.

Drew C. Hartley, pro se, Petitioner.

No appearance for Respondent.

PER CURIAM.

The instant petition for writ of mandamus presents a challenge to a circuit court order which requires petitioner to comply with section 57.085, Florida Statutes, in

order to proceed with his petition filed in that court. Even if petitioner is correct that his circuit court case is a “collateral criminal proceeding,” he must be certified as indigent under section 57.081 in order to obtain a waiver of the circuit court’s filing fee. Schmidt v. Crusoe, 878 So. 2d 361, 367 n. 7 (Fla. 2003); Small v. Crosby, 877 So. 2d 911 (Fla. 4th DCA 2004). The circuit court order on indigency, however, is neither appealable nor reviewable by extraordinary writ because any error can be remedied on appeal from a final order. Banks v. State, 916 So. 2d 35 (Fla. 1st DCA 2005); Steele v. Crosby, 920 So. 2d 117 (Fla. 1st DCA 2006). The petition for writ of mandamus is therefore denied without prejudice.

PETITION DENIED.

BARFIELD, DAVIS, and PADOVANO, JJ., CONCUR.