

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

MARXENE JUSTE,

Petitioner,

v.

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

CASE NO. 1D10-4477

CHICK'N PORTIONS and
LIBERTY MUTUAL
INSURANCE COMPANY,

Respondents.

_____ /

Opinion filed February 11, 2011.

Petition for Writ of Mandamus.

Date of Accident: February 21, 2002.

Marxene Juste, pro se, Petitioner.

Tara L. Sa'id of the Law Offices of Amy L. Warpinski, Jacksonville, for
Respondents.

PER CURIAM.

We treat petitioner's improperly titled "Writ of Habeas Corpus Belated Appeal" as a petition for writ of mandamus seeking to compel the JCC to hold an evidentiary hearing and rule on petitioner's motion to vacate the JCC's June 8, 2007, order. See Fla. R. App. P. 9040(c) (stating where party seeks an improper

remedy, the cause shall be treated as if the proper remedy had been sought, provided that it shall not be the responsibility of the court to seek the proper remedy). The petition is DENIED. See Smartt v. First Union Nat'l Bank, 771 So. 2d 1232 (Fla. 5th DCA 2000).

WEBSTER, WOLF, and ROBERTS, JJ., CONCUR.