

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2007

WILLIE BUSH,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D06-2811

[February 7, 2007]

PER CURIAM.

This is an appeal from the summary denial of a petition for writ of mandamus filed against Philip J. Massa, Esq. in which the petitioner, Willie Bush, requested that Massa turn over to him his complete record on appeal, including transcripts, in connection with case no. 4D03-1499, the appeal of Bush's conviction and sentence. In that case, Massa was Bush's specially appointed appellate counsel. Bush previously had written Massa to request the documents; Bush served his petition and his brief on Massa, but Massa has filed no brief in connection with this appeal. The trial court did not issue an order to show cause and denied the petition without any explanation. We reverse.

As Bush's specially appointed public defender, Massa was an agent of the state, and he may be compelled by mandamus to turn over to his former client the records and transcripts which were prepared for his client at public expense. *See, e.g., Ramos v. State*, 757 So.2d 616 (Fla. 3d DCA 2000); *Colon v. Irwin*, 732 So.2d 428 (Fla. 5th DCA 1999); *Pearce v. Sheffey*, 647 So.2d 333 (Fla. 2d DCA 1994). Therefore, we reverse with directions to the trial court to issue an order to show cause to the respondent.

Reversed and Remanded for further proceedings.

STEVENSON, C.J., WARNER and KLEIN, JJ., concur.

* * *

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Edward A. Garrison, Judge; L.T. Case No. 02-11731 CFB02.

Willie Bush, Indiantown, pro se.

No appearance for appellee.

Not final until disposition of timely filed motion for rehearing