

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2008

LAWRENCE LEE JONES,
Appellant,

v.

T. FERGUSON, Food Service Director of Glades Correctional Institution,
individually and in his official capacity,
Appellee.

No. 4D07-1865

[April 30, 2008]

PER CURIAM.

Lawrence Lee Jones appeals from the trial court's dismissal of his complaint pursuant to section 57.085, Florida Statutes (2007). The order found insufficient legal grounds for Jones's cause of action and directed the Clerk of Court not to file the case. We hold that it was error to dismiss the case without first finding Jones indigent. *See Craft v. Holloway*, 975 So. 2d 620 (Fla. 4th DCA 2008) (finding the trial court's dismissal of the appellant's complaint under section 57.085 was premature because he had not yet been adjudicated indigent as required by section 57.085(6)).

We do not reach the issue of whether Jones's petition stated a cause of action. Upon remand, if the trial court adjudicates Jones indigent and again dismisses his claim because it is legally insufficient, we recommend that the trial court state its reasons for dismissal. *See Drayton v. Moore*, 807 So. 2d 819, 823 (Fla. 2d DCA 2002) (recommending that if a trial court finds indigency on remand, and again dismisses the claim, it should "detail the deficiencies in the petition that justify dismissal").

We affirm without discussion Jones's claim that the trial court erred in not retaining all of the original pleadings necessary to effectuate appellate review.

Affirmed in Part; Reversed in Part.

SHAHOOD, C.J., TAYLOR and HAZOURI, JJ., concur.

* * *

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Richard I. Wennet, Judge; No lower tribunal case number provided.

Lawrence Lee Jones, Belle Glade, pro se.

No appearance for appellee.

Not final until disposition of timely filed motion for rehearing