

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FIFTH  
DISTRICT

JULY TERM 2002

HECTOR VALLADARES,

Petitioner,

v.

CASE NO. 5D02-2858

STATE OF FLORIDA,

Respondent.

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Opinion filed December 27, 2002

Petition for Writ of Mandamus  
A. Thomas Mihok, Respondent Judge.

Hector Valladares, Perry, Pro Se.

Richard E. Doran, Attorney General, Tallahassee, and  
Kellie A. Nielan, Assistant Attorney General, Daytona  
Beach, for Respondent.

PER CURIAM.

Hector Valladares petitions this court for a writ of mandamus. He complains that he filed a motion for postconviction relief pursuant to Florida Rule of Criminal Procedure 3.850 in the circuit court<sup>1</sup> on October 31, 2001, and to date, the matter has not been resolved.

The delay in acting on the motion is unreasonable, and mandamus is appropriate under the circumstances. Bernard v. State, 734 So. 2d 606 (Fla. 1st DCA 1999). Accordingly, we direct the circuit court to hold an evidentiary hearing or rule on Valladares's motion on or before January 31, 2003. Because we are confident that the trial court will

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<sup>1</sup>Orange County case no. CR99-10923.

comply with this directive, we withhold issuance of the writ at this time.

SHARP, W., GRIFFIN and ORFINGER, JJ., concur.