

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

JANUARY TERM 2010

EDDIE CARSWELL,

Petitioner,

v.

CASE NO. 5D10-182

FLORIDA PAROLE COMMISSION
AND STATE OF FLORIDA,

Respondent.

_____ /

Opinion filed May 21, 2010

Petition for Certiorari Review of
Order from the Circuit Court
for Sumter County,
William H. Hallman, III, Judge.

Eddie Carswell, Bushnell, pro se.

Sarah J. Rumph, General Counsel, Florida
Parole Commission, for Respondent.

PER CURIAM.

Eddie Carswell seeks certiorari review of a circuit court order denying his second petition for writ of habeas corpus, seeking immediate release. Carswell argues that his current incarceration -- ordered after Carswell violated a term of his conditional release -- is illegal because the Florida Parole Commission never had authority to supervise him on conditional release. The trial court ordered a response from the Commission, and expressly authorized Carswell to file a reply. Although Carswell timely filed a reply, the

trial court did not await the reply and entered the denial order prior to receipt of Carswell's reply. Under these circumstances, the Commission correctly concedes that the denial order should be quashed, with the matter remanded to the trial court to consider Carswell's reply. See *Salow v. State*, 766 So. 2d 1222 (Fla. 5th DCA 2000).

Accordingly, we GRANT the petition, QUASH the denial order, and REMAND with directions that the trial court consider Carswell's reply before ruling on this matter.

GRANT PETITION, QUASH DENIAL ORDER and REMAND.

TORPY, LAWSON and COHEN, JJ., concur.