

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

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

OTIS FRANKLIN WILLIAMS

Appellant,

v.

CASE NO. 1D02-1586

FLORIDA DEPARTMENT OF
CORRECTIONS

Appellee.

Opinion filed July 21, 2003.

An appeal from Circuit Court for Leon County.
William L. Gary, Judge.

Otis F. Williams, pro se.

Charlie Crist, Attorney General; Philip A. Fowler, Assistant Attorney General,
Tallahassee, for appellee.

PER CURIAM.

Appellant challenges an order dismissing his petition for writ of mandamus which among other things sought review of a disciplinary action resulting in loss of gain time. The circuit court dismissed appellant's action for failure to comply with

section 58.085(2), Florida Statutes, the Prisoner Indigency Statute, regarding waiver of prepayment of court costs and fees for indigent prisoners. After the trial court issued its order, the supreme court in Schmidt v. Crusoe, 28 Fla. L. Weekly S367 (Fla. May 1, 2003), motion for reh'g filed, No. SC00-2512 (Fla. May 21, 2003), held that a prisoner who challenges loss of gain time as a result of a disciplinary action (a collateral criminal proceeding) is exempt from the requirements of the Prisoner Indigency Statute and is instead subject to the requirements of section 57.081(a), Florida Statutes (2001).

We, therefore, reverse and remand for the trial court to conduct further proceedings consistent with the dictates of Schmidt.

WOLF, C.J., ERVIN and BENTON, JJ., CONCUR.