

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

MELVIN CARSWELL, JR.,

Appellant,

v.

FLORIDA PAROLE
COMMISSION,

Appellee.

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

CASE NO. 1D03-1738

Opinion filed December 31, 2003.

An appeal from an order of the Circuit Court for Escambia County.
Nickolas P. Geeker, Judge.

Melvin Carswell, Jr., pro se, appellant.

Kim M. Fluharty, General Counsel, and Mark J. Hiers, Assistant General Counsel, for appellee.

PER CURIAM.

Appellant seeks review of the circuit court's order dismissing his petition for writ of habeas corpus, in which he challenged the Florida Parole Commission's revocation of his

conditional release supervision. The Commission based the revocation on appellant's violation of condition 2(c) and condition 7. Before the circuit court, appellant challenged the sufficiency of the evidence supporting the violations. Without issuing an order to show cause, the circuit court found that appellant had admitted violating condition 2(c) and therefore, regardless of the validity of the violation of condition 7, revocation of appellant's conditional release supervision was proper. We find that the record before the circuit court did not reveal whether the Commission would have revoked appellant's conditional release supervision solely based on a violation of condition 2(c). Therefore, the order dismissing the petition for writ of habeas corpus is hereby quashed, and this proceeding is remanded to the circuit court for the issuance of an order to show cause directing the filing of a response by the Commission. If the Commission fails to show that it would have revoked appellant's conditional release supervision solely on a violation of condition 2(c), then, the circuit court shall remand to the Commission for further proceedings. See Lee v. Florida Parole Comm'n, 730 So. 2d 827 (Fla. 1st DCA 1999).

ERVIN, BOOTH and KAHN, JJ., concur.