

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

EUGENE DUCKWORTH,

Petitioner,

v.

DEPARTMENT OF CORRECTIONS
and FLORIDA PAROLE
COMMISSION,

Respondents.

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

CASE NO. 1D03-3842

Opinion filed February 27, 2004.

Petition for Writ of Certiorari -- Original Jurisdiction.

Eugene Duckworth, petitioner, pro se.

Louis A. Vargas, General Counsel, and Beverly Brewster, Assistant General Counsel,
for respondent Florida Department of Corrections.

Kim M. Fluharty, General Counsel, and Susan Schwartz, Assistant General Counsel,
for respondent Florida Parole Commission.

PER CURIAM.

We conclude that the circuit court departed from the essential requirements of
law when it denied Eugene Duckworth's petition for writ of habeas corpus without

issuing an order to show cause. Duckworth challenged the revocation of his conditional release supervision, and alleged in his sworn petition that the hearing examiner failed to subpoena two witnesses he requested for the revocation hearing. In addition, he adequately alleged a basis for concluding that the testimony of these witnesses would have been relevant and material. The allegations of the petition were thus sufficient to require the issuance of an order to show cause. Cf. Holcomb v. Department of Corrections, 609 So. 2d 751 (Fla. 1st DCA 1992) (inmate alleging denial of right to call witnesses in disciplinary hearing should identify the requested witnesses and provide a brief statement of what their testimony would have been); Kendrick v. Florida Parole Commission, 855 So. 2d 248 (Fla. 1st DCA 2003) (sworn allegations concerning absence of subpoenaed witness at conditional release revocation hearing sufficient to warrant order to show cause). Accordingly, the order of the circuit court summarily denying the petition is hereby quashed, and the matter is remanded for further proceedings.

BOOTH, VAN NORTWICK and LEWIS, JJ., concur.