

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

GERALD M. McKIRE,

Appellant,

v.

JAMES V. CROSBY, JR., Secretary,  
Department of Corrections,

Appellee.

---

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

CASE NO. 1D04-1373

Opinion filed August 18, 2004.

An appeal from an order of the Circuit Court for Leon County.  
Charles A. Francis, Judge.

Gerald M. McKire, pro se, appellant.

Charlie Crist, Attorney General, and Joy A. Stubbs, Assistant Attorney General,  
Tallahassee, for appellee.

PER CURIAM.

The order of the circuit court is reversed and remanded on authority of Burgess v. Crosby, 870 So. 2d 217 (Fla. 1st DCA 2004). On remand, the circuit court shall consider the merits of the petition for writ of mandamus.

BENTON, BROWNING and POLSTON, JJ., concur.