

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

CHRISTOPHER JAMES
THOMPSON,

Appellant,

v.

JAMES R. McDONOUGH, Secretary,
Florida Department of Corrections,

Appellee.

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

CASE NO. 1D07-3425

Opinion filed October 24, 2007.

An appeal from the Circuit Court for Leon County.
Thomas H. Bateman, III, Judge.

Christopher James Thompson, pro se, Appellant.

Bill McCollum, Attorney General, and Linda Horton Dodson, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

Appellant seeks review of an order of the circuit court which dismissed his
mandamus petition as having been filed outside the time limitation for such claims

provided for by section 95.11(8), Florida Statutes. The Department moves for remand, essentially conceding error and agreeing that the mandamus petition was given to prison officials for mailing (and therefore filed under the provisions of Florida Rule of Appellate Procedure 9.420(a)(2)) before expiration of the limitation period. The copy of the mandamus petition contained in the record on appeal reflects a discrepancy between the certificate of service date and the Department of Corrections' mailing stamp; it also has two date stamps and another indication that the petition was returned to petitioner by the circuit court clerk when first filed. This court is satisfied that the petition was timely filed and accordingly, we REVERSE and REMAND to the circuit court for further proceedings on the merits of the petition.

REVERSED and REMANDED.

BROWNING, C.J., BARFIELD and BENTON, JJ., CONCUR.