

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

BENNY MOONEY,

Petitioner,

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

v.

CASE NO. 1D12-0107

FLORIDA PAROLE
COMMISSION AND THE
FLORIDA DEPARTMENT OF
CORRECTIONS,

Respondents.

_____ /

Opinion filed October 8, 2012.

Petition for Writ of Certiorari -- Original Jurisdiction.

Bernard F. Daley, Jr. of The Daley Law Firm, P.A., Tallahassee, for Petitioner.

Sarah Rumph, General Counsel, Florida Parole Commission, Tallahassee; Jennifer Parker, General Counsel, and Michael T. Kennett, Assistant General Counsel, Florida Department of Corrections, Tallahassee, for Respondents.

PER CURIAM.

Benny Mooney petitions for certiorari review of an order of the circuit court

which denied his petition for writ of habeas corpus. We grant the writ.

The circuit court departed from the essential requirements of law when it denied Mooney's petition without affording him the opportunity to reply to the Florida Parole Commission's response, which sought to dismiss the petition on the basis of res judicata. See Bard v. Wolson, 687 So. 2d 254 (Fla. 1st DCA 1996). Accordingly, the petition for writ of certiorari is GRANTED, the order denying Mooney's petition is QUASHED, and this matter is REMANDED to the lower tribunal to afford Mooney the opportunity to reply to the response, and for reconsideration of this petition on the basis of the reply.

BENTON, C.J., LEWIS and ROWE, JJ., CONCUR.