

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

GILBERT RAMIREZ,

Petitioner,

v.

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

CASE NO. 1D12-1033

STATE OF FLORIDA,

Respondent.

_____ /

Opinion filed September 21, 2012.

Petition for Writ of Mandamus -- Original Jurisdiction.

Gilbert Ramirez, pro se, Petitioner.

Pamela Jo Bondi, Attorney General, and Edward C. Hill, Jr., Assistant Attorney
General, Tallahassee, for Respondent.

PER CURIAM.

Gilbert Ramirez petitions this court for a writ of mandamus. He seeks to compel the Circuit Court for Duval County to rule on a motion for postconviction relief which he filed two years ago in that court's case number 2004-CF-10692. The State of Florida has been directed to respond to the postconviction motion. No disposition of the merits of the motion, however, has been made by the circuit court.

The trial court's delay in acting on the motion is unreasonable and a writ of mandamus is appropriate in the circumstances. See Bernard v. State, 734 So. 2d 606 (Fla. 1st DCA 1999). We grant the petition and issue the writ of mandamus. Within 30 days of the date of issuance of mandate in this cause, the circuit court shall either issue a final order on the postconviction motion or, if it finds that an evidentiary hearing is necessary, enter an order scheduling such hearing.

PETITION GRANTED; WRIT ISSUED.

MARSTILLER, RAY, and SWANSON, JJ., CONCUR.