

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D22-2730

MICHAEL JOSEPH NILIO,

Petitioner,

v.

RICKY D. DIXON, Secretary,
Florida Department of
Corrections and THE WARDEN,
MR. MIDDLEBROOKS, Graceville
Correctional Institution, an
M.T.C. Penalized Prison
Corporation, et al.,

Respondents.

Petition for Writ of Mandamus—Original Jurisdiction.

October 12, 2022

PER CURIAM.

In this mandamus petition, Petitioner seeks to compel the Florida Department of Corrections to report an assault and battery committed on him to the sheriff's office, to preserve the video evidence, and to submit the video evidence to the sheriff's office for investigation. Petitioner also requests the Court to compel the Department of Corrections to transfer him from Graceville Correctional Institution to a different correctional institution.

“[C]ircuit courts typically have authority over mandamus actions stemming directly from a department of correction’s failure to act.” *Scott v. State*, 130 So. 3d 741, 742 (Fla. 3d DCA 2014) (citing *Bush v. State*, 945 So. 2d 1207, 1210 (Fla. 2006) (“[O]nce a prisoner has exhausted administrative remedies, he or she generally may seek relief in an original proceeding filed in *circuit court* as an extraordinary writ petition.”) (emphasis added))). Circuit courts are also better equipped to handle extraordinary writs petitions that may involve fact-finding. *See Harvard v. Singletary*, 733 So. 2d 1020, 1022 (Fla. 1999).

Pursuant to Florida Rule of Appellate Procedure 9.040(b), the Court transfers this cause to the Second Judicial Circuit in and for Leon County.

The transfer of this case should not be construed as an adjudication or comment on the merits of the petition, as a determination that the transferee court has jurisdiction, or that the petition is properly designated as a petition for writ of mandamus. The transferee court should not interpret the transfer of this case as an indication that it must or should reach the merits of the petition. The transferee court must treat the petition as if it had been originally filed there on the date that it was filed in this court. The Court defers all pending motions in this case to the transferee court.

Any future pleadings regarding this case should be filed in the above-mentioned circuit court.

B.L. THOMAS, RAY, and LONG, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Michael Joseph Nilio, pro se, Petitioner.

Lance Eric Neff, General Counsel, Department of Corrections,
Tallahassee, for Respondents.