

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**COLE BORG,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D14-4363

[July 8, 2015]

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Stephen A. Rapp, Judge; L.T. Case No. 2012CF002867AXXX.

Jason Weiss of Atterbury Goldberger & Weiss, P.A., West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Mitchell A. Egber, Assistant Attorney General, West Palm Beach, for appellee.

**ON CONCESSION OF ERROR**

PER CURIAM.

Based on appellee's concession of error, we reverse the order denying appellant's petition to seal records and remand to the trial court for a new hearing prior to July 25, 2015<sup>1</sup> on appellant's motion filed pursuant to section 943.059(1), Florida Statutes (2014). *See Gotowala v. State*, 162 So. 3d 33, 34 (Fla. 4th DCA 2014). The trial court's order denying sealing of records did not consider the facts and circumstances of the individual case and denied relief based upon generalized considerations, which is not

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<sup>1</sup> Petitioner received the authorized certificate of eligibility to apply for a petition to seal from the Department of Corrections. That certificate was for one year, which ends on July 25, 2015. Our expedition of this appeal and direction to the court to hold a prompt hearing seeks to have the matter concluded within the year period, so that petitioner does not have to reapply for certification. *See* § 943.0585(2), Fla. Stat. (2015).

a proper exercise of its discretion. See *V.F.D v. State*, 19 So. 3d 1172 (Fla. 1st DCA 2009); *Godoy v. State*, 845 So. 2d 1016, 1017 (Fla. 3d DCA 2003).

*Reversed and remanded with directions.*

WARNER, TAYLOR and FORST, JJ., concur.

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***Not final until disposition of timely filed motion for rehearing.***