

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

SAMUEL H. WIGFALS,)
)
 Petitioner,)
)
 v.)
)
 James R. McDonough, Interim Secretary,)
 Florida Department of Corrections,)
 and FLORIDA PAROLE COMMISSION,)
)
 Respondents.)
 _____)

Case No. 2D05-5718

Opinion filed April 19, 2006.

Petition for Writ of Certiorari to the
Circuit Court for the Twelfth Judicial
Circuit for DeSoto County,
sitting in its appellate capacity.

Samuel H. Wigfals, pro se.

Bradley R. Bischoff, Assistant
General Counsel for Respondent
Florida Parole Commission.

No appearance for Respondent
James R. McDonough.

CANADY, Judge.

As the Florida Parole Commission concedes in this certiorari proceeding,
the circuit court erred in denying Wigfals' petition for writ of habeas corpus prior to

expiration of the time afforded for him to reply to the Commission's response. See McCarthy v. Fla. Parole Comm'n, 889 So. 2d 1018 (Fla. 1st DCA 2005); Minott v. State, 718 So. 2d 381 (Fla. 5th DCA 1998); Bard v. Wolson, 687 So. 2d 254 (Fla. 1st DCA 1996). We therefore grant the certiorari petition and quash the order denying the writ of habeas corpus. The trial court is instructed to allow Wigfals twenty days to file a reply to the Commission's response before granting or denying the writ.

Petition granted.

NORTHCUTT and STRINGER, JJ., Concur.