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

		IN THE DISTRICT COURT OF APPEAL	
	OF FLORIDA		A
		SECOND DISTRICT	
JOHN BOWLES,	Appellant,	) ) ) )	Case No. 2D01-486
STATE OF FLORIDA,		)	
	Appellee.	) ) )	

Opinion filed October 5, 2001.

Petition for Writ of Certiorari to the Circuit Court for Pasco County, Maynard F. Swanson, Judge.

John Bowles, pro se.

Robert A. Butterworth, Attorney General, Tallahassee, and Sheron Wells, Assistant Attorney General, Tampa, for Appellee.

DAVIS, Judge.

John Bowles petitions this court for a writ of certiorari to review the circuit court's denial of his petition for a writ of mandamus. He filed the mandamus requesting gaintime that he alleges was wrongfully denied. Because we believe this petition is more properly considered as a direct appeal from the denial of mandamus, we elect to treat it as such.

The trial court denied Bowles' petition for mandamus for failure to state a prima facie case. However, because our review of the record leads us to conclude that Bowles did state a prima facie case, we reverse the court's denial of mandamus and remand for an evidentiary hearing.

Reversed and remanded.

PARKER, A.C.J., and SILBERMAN, J., Concur.