

Third District Court of Appeal

State of Florida

Opinion filed February 20, 2019.

No. 3D18-0147
Lower Tribunal No. 02-18680

Antwann Rogers,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Michael Hanzman, Judge.

Antwann Rogers, in proper person.

Ashley Moody, Attorney General, and Sandra Lipman, Assistant Attorney General, for appellee.

Before SALTER, LINDSEY, and MILLER, JJ.

MILLER, J.

Antwann L. Rogers appeals the summary denial of his petition for writ of mandamus which sought to compel the State’s public records specialist to provide him with various documents.¹ As the State properly concedes, the record is devoid of claimed exemptions to disclosure, and there remains a disputed factual issue as to whether the State possesses the requested records. Thus, we reverse and remand for an evidentiary hearing. See DeGregorio v. State, 205 So. 3d 841 (Fla. 2d DCA 2016) (reversing a denial of petition upon unsworn pleadings and remanding for an evidentiary hearing to determine whether the respondent had furnished all records); Perez v. State, 980 So. 2d 1205, 1206 (Fla. 3d DCA 2008) (“If the petition and response raise disputed factual issues, the trial court should resolve them upon proper evidence, which may include undisputed affidavits.”); Radford v. Brock, 914 So. 2d 1066 (Fla. 2d DCA 2005) (reversing a dismissal of petition in the absence of sworn evidence and remanding for further proceedings).

Reversed and remanded.

¹ The State does not challenge the legal sufficiency of the petition. See generally Clay Cty. Educ. Ass’n v. Clay Cty. Sch. Bd., 144 So. 3d 708, 709 (Fla. 1st DCA 2014) (citing Polley v. Gardner, 98 So. 3d 648, 649 (Fla. 1st DCA 2012)).