

Third District Court of Appeal

State of Florida, January Term, A.D., 2008

Opinion filed May 14, 2008.

Not final until disposition of timely filed motion for rehearing.

No. 3D08-336
Lower Tribunal No. 1592

Hulon B. Gunter,
Petitioner,

vs.

The State of Florida,
Respondent.

A case of Original Jurisdiction — Mandamus.

Hulon B. Gunter, in proper person.

Bill McCollum, Attorney General, and Linda S. Katz, Assistant Attorney General, for respondent.

Before GERSTEN, C.J., and SHEPHERD and LAGOA, JJ.

PER CURIAM.

We deny without prejudice the defendant, Hulon B. Gunter's, petition for

writ of mandamus wherein he seeks to compel the trial court to rule on his motion to correct an illegal sentence filed on or about November, 2006. The State of Florida has responded that it is unable to locate a copy of the motion. Additionally, the clerk of the circuit court has also advised that it has been unable to locate the motion in question. We, therefore, deny the petition without prejudice for Gunter to re-file his motion in order that the trial court may timely rule on it. If Gunter re-files his motion, we direct him to serve a copy of the motion with the Office of the Attorney General.

Petition for writ of mandamus denied without prejudice.