

FIFTH DISTRICT COURT OF APPEAL OF FLORIDA

Department of Children and Families v. Kenneth Williams, Jr., and
State of Florida

Williams · No. 5D2026-0954 · Decided May 8, 2026

SUMMARY

The Fifth District Court of Appeal of Florida granted the Department of Children and Families’ petition for writ of certiorari and quashed an order committing Kenneth Williams, Jr. to DCF custody. The court held that the lower court failed to comply with statutory requirements governing revocation of conditional release and involuntary commitment, including the requirement for a sworn affidavit or statement and findings that Williams was manifestly dangerous. The court concluded that these violations constituted a departure from the essential requirements of law and caused irreparable harm to DCF.

CASE DETAILS

COURT	Fifth District Court of Appeal of Florida
WRITING FOR THE COURT	Harris, J.; Wallis, J.; Soud, J.
JURISDICTION	Fifth District Court of Appeal of Florida
DECIDED	May 8, 2026
DOCKET	5D2026-0954
DISPOSITION	quashed
PROCEDURAL POSTURE	The Department of Children and Families petitioned for certiorari review of a circuit court order committing Kenneth Williams, Jr., to DCF custody.
STANDARD OF REVIEW	Certiorari review requires the petitioner to establish a departure from the essential requirements of law, material injury that will continue throughout the proceeding, and the absence of an adequate remedy by post-judgment appeal. The latter two requirements constitute irreparable harm. After jurisdiction is established, the court determines whether the lower court violated a clearly established principle of law resulting in a miscarriage of justice.
PRECEDENTIAL VALUE	published

PARTIES

Department of Children and Families v. Kenneth Williams, Jr., State of Florida

TOPICS

writ of certiorari

appellate procedure

statutory interpretation

criminal procedure

administrative law

PRACTICE AREAS

appellate procedure

criminal procedure

mental health commitment

conditional release

QUESTIONS PRESENTED

1. Whether DCF established irreparable harm sufficient to invoke certiorari jurisdiction over the commitment order.
2. Whether the circuit court could revoke Williams's conditional release and recommit him to DCF without an affidavit or statement under oath as required by section 916.17(2), Florida Statutes.
3. Whether the circuit court could commit Williams under section 916.15(2), Florida Statutes, without evidence and a finding that he was mentally ill and manifestly dangerous to himself or others.

HOLDINGS

1. DCF established irreparable harm because it was required to expend appropriated funds in compliance with governing law, had no direct right of appeal, and could not obtain relief in a post-judgment appeal in the criminal proceeding.
2. Section 916.17(2), Florida Statutes, requires an affidavit or statement under oath before a court may revoke a defendant's conditional release, modify release conditions, or consider returning the defendant to DCF custody. An unsworn case-manager letter does not satisfy that prerequisite.
3. A commitment under section 916.15(2), Florida Statutes, requires evidence and a court finding that the defendant has a mental illness and, because of that illness, is manifestly dangerous to himself or herself or others. The circuit court's commitment order was legally insufficient because it contained no such dangerousness finding and the evidence did not support one.

KEY QUOTATIONS

“As a general rule, certiorari is the proper vehicle for seeking this court’s review of orders committing an individual involuntarily.” (at 3)

“In this case, neither an affidavit nor a statement under oath was filed with the lower court, which is a prerequisite to the court’s ability to revoke a defendant’s conditional release and commit the defendant to DCF custody.” (at 4)

“The court’s order contains no finding that Williams presents a danger to himself or others.” (at 4)

FACTUAL BACKGROUND

Williams was placed on conditional release after DCF determined that he no longer met the criteria for continued commitment. His case manager sent the circuit court an unsworn letter alleging that Williams had violated the conditions of release, and Williams was also temporarily held under the Baker Act. A court-appointed expert found Williams competent and opined that he did not meet the criteria for involuntary commitment, but the circuit court nevertheless recommitted him to DCF without finding that he was manifestly dangerous to himself or others.

PROCEDURAL HISTORY

Williams was adjudicated guilty in 2002 and placed on probation. After being found not guilty by reason of insanity in a probation-violation proceeding, he was committed to DCF custody and later placed on conditional release. Following an unsworn letter from his case manager alleging noncompliance, the circuit court appointed a mental-health expert and ultimately recommitted Williams to DCF under sections 916.15(2) and 916.17(2), Florida Statutes. DCF sought certiorari relief, and the Fifth District granted the petition and quashed the commitment order.

DISPOSITION

quashed

CASES CITED

- Dep’t of Child. & Fams. v. Campbell, 295 So. 3d 868, 870 (Fla. 5th DCA 2020)
- State v. Victorino, 372 So. 3d 772, 777 (Fla. 5th DCA 2023)
- Dep’t of Child. & Fams. v. Despaigne, 348 So. 3d 1221, 1222 (Fla. 5th DCA 2022)
- Dep’t of Child. & Fams. v. Lotton, 172 So. 3d 983, 985 (Fla. 5th DCA 2015)
- AVCO Corp. v. Neff, 30 So. 3d 597, 601 (Fla. 1st DCA 2010)
- O’Neill v. O’Neill, 823 So. 2d 837, 839 (Fla. 5th DCA 2002)
- Rich v. Fisher, 655 So. 2d 1149 (Fla. 4th DCA 1995)
- Haines City Cmty. Dev. v. Heggs, 658 So. 2d 523 (Fla. 1995)
- Dep’t of Child. & Fams. v. Kirshner, 380 So. 3d 502, 504-05 & n.3 (Fla. 5th DCA 2024)

OPINION

Department of Children and Families v. Kenneth Williams, Jr., and State of Florida
PER CURIAM.

FIFTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

_____ Case No. 5D2026-0954 LT Case No. 2001-CF-000946-A

DEPARTMENT OF CHILDREN AND
FAMILIES,
Petitioner, v.

KENNETH WILLIAMS, JR., AND
STATE OF FLORIDA,

Respondents. _____ Petition for Certiorari Review of Order from the Circuit Court for Citrus County, Joel D. Fritton, Judge. Logan Bartholomew, Assistant Regional Counsel, of Department of Children and Families, Orlando, for Petitioner. James Uthmeier, Attorney General, Tallahassee, and Zachary L. Wiseman, Assistant Attorney General, Daytona Beach, for Appellee, State of Florida. No Appearance for Remaining Respondents. May 8, 2026 HARRIS, J. The Department of Children and Families (“DCF”) filed a petition for writ of certiorari seeking to quash the lower court’s order committing Kenneth Williams, Jr. (“Williams”) to its care. As conceded by the State, the lower court did not follow the statutory requirements for committing Williams to DCF custody. Accordingly, we grant the petition and quash the order of commitment. On May 21, 2002, Williams was adjudicated guilty of lewd or lascivious battery and placed on probation. Five months later he was charged with a violation of his probation. He was ultimately found not guilty by reason of insanity and committed to DCF custody. On June 27, 2025, DCF reported to the lower court that Williams no longer met the criteria for commitment pursuant to section 916.15(2), Florida Statutes, and recommended that Williams be placed on conditional release pursuant to section 916.17, Florida Statutes. On July 22, 2025, the court placed Williams on conditional release. Shortly thereafter, Williams’ case manager wrote an unsworn letter to the court stating that Williams failed to comply with the terms of his conditional release. Williams was also temporarily held pursuant to the Baker Act (Chapter 394, Florida Statutes). Williams’ counsel filed a motion to appoint a mental health expert to evaluate Williams, and on December 12, 2025, the court granted the motion. The appointed expert, Dr. Harry Krop, Ph.D., authored a report following his evaluation of Williams. Dr. Krop opined that Williams was competent to proceed and made no mention of Williams being a danger to himself or others. Dr. Krop further opined that Williams did not meet criteria for involuntary commitment to a forensic or civil State hospital. Despite Dr. Krop’s evaluation and opinions, the court entered an order committing Williams to DCF pursuant to section 916.15(2), Florida Statutes, which requires a finding that a defendant is “manifestly dangerous to himself or herself or others.” § 916.15(2), Fla. Stat. The court’s order contains no finding that Williams presents a danger to 2 himself or others. DCF then filed the instant petition for writ of certiorari seeking to quash the lower court’s order committing Williams to its custody. To demonstrate entitlement to certiorari relief, the petitioner must show the following: (1) the trial court departed from the essential requirements of the law when it issued a ruling, (2) the ruling resulted in a material injury that will continue throughout the case, and (3) the injury cannot be corrected on post- judgment appeal. *Dep’t of Child. & Fams. v. Campbell*, 295 So. 3d 868, 870 (Fla. 5th DCA 2020). The last two prongs are referred to as “irreparable harm.” *State v. Victorino*, 372 So. 3d 772, 777 (Fla. 5th DCA 2023). For this Court to have jurisdiction, the petitioner must demonstrate irreparable harm. *Id.* “As a general

rule, certiorari is the proper vehicle for seeking this court's review of orders committing an individual involuntarily." *Dep't of Child. & Fams. v. Despaigne*, 348 So. 3d 1221, 1222 (Fla. 5th DCA 2022) (quoting *Dep't of Child. & Fams. v. Lotton*, 172 So. 3d 983, 985 (Fla. 5th DCA 2015)). Once the petition demonstrates that the appellate court has jurisdiction by virtue of irreparable harm, the Court may move on to the question of whether the trial court departed from the essential requirements of law. See *AVCO Corp. v. Neff*, 30 So. 3d 597, 601 (Fla. 1st DCA 2010); *O'Neill v. O'Neill*, 823 So. 2d 837, 839 (Fla. 5th DCA 2002). An error of law is not necessarily a departure from the essential requirements of law. See, e.g., *Rich v. Fisher*, 655 So. 2d 1149 (Fla. 4th DCA 1995). The district courts should grant a petition for certiorari only when there has been a violation of a clearly established principle of law resulting in a miscarriage of justice. See *Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523 (Fla. 1995). This Court has found that irreparable harm exists in circumstances similar to the instant petition. Specifically, this Court has held that DCF suffers a material injury because "it is responsible for expending its appropriated funds in accordance with the laws governing the agency and . . . because DCF has no direct right of appeal." *Campbell*, 295 So. 3d at 870; *Dep't of Child. & Fams. v. Kirshner*, 380 So. 3d 502, 504 (Fla. 5th DCA 2024). Furthermore, because this is a criminal proceeding, DCF will not be a party in any post-judgment appeal and cannot obtain relief pursuant to that appeal. Therefore, DCF has established irreparable harm. In turning to whether the court departed from the essential requirements of law, we first look at the plain text of section 916.17(2), Florida Statutes, which states: Upon the filing of an affidavit or statement under oath by any person that the defendant has failed to comply with the conditions of release, that the defendant's condition has deteriorated to the point that inpatient care is required, or that the release conditions should be modified, the court shall hold a hearing within 7 days after receipt of the affidavit or statement under oath. After the hearing, the court may modify the release conditions. The court may also order that the defendant be returned to the department if it is found, after the appointment and report of experts, that the person meets the criteria for involuntary commitment under s. 916.13 or s. 916.15. In this case, neither an affidavit nor a statement under oath was filed with the lower court, which is a prerequisite to the court's ability to revoke a defendant's conditional release and commit the defendant to DCF custody. The letter sent to the court from Williams' case manager was neither sworn nor in the form of an affidavit. Therefore, the lower court erred in holding a hearing to consider modification of Williams' release and ultimately committing him to the department. As we noted in *Kirshner*, "the violation of the procedural requirements of section 916.17 here constituted a departure from the essential requirements of law because it results in DCF having to expend funds to care for and treat an individual who may not qualify for commitment." 380 So. 3d at 505 n.3. DCF further argues that the lower court departed from the essential requirements of the law when it failed to comply with section 916.15(2), which requires that the court make findings that the defendant "has a mental illness and, because of the illness, is manifestly dangerous to himself or herself or others." We agree that there was no evidence presented below, and no finding

by the court, that Williams is manifestly dangerous, especially given Dr. Krop's opinion that Williams "does not meet criteria for involuntary commitment to a forensic or civil State hospital." Therefore, the lower court erred in committing Williams to DCF custody. Because the court not only failed to follow the requirements of section 916.15(2), but also failed to follow the requirements of section 916.17(2), we grant the petition and quash the lower court's order. PETITION GRANTED; ORDER QUASHED. WALLIS and SOUD, JJ., concur.

_____ Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331. _____ 5