

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D21-3240

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Petitioner,

v.

MARK S. INCH, Secretary,  
Florida Department of  
Corrections,

Respondent.

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Petition for Writ of Certiorari—Original Jurisdiction.

December 1, 2021

PER CURIAM.

In the case below, Petitioner sought review of the Department of Corrections' quasi-judicial determination that Petitioner is ineligible to receive incentive gain-time and its refusal to award him such gain-time. He sought immediate release arguing that if he had been awarded incentive gain-time throughout his incarceration, he would now have completed his sentence. The circuit court found that Petitioner is eligible for incentive gain-time but denied him any relief, finding that the Department has discretion in awarding incentive gain-time. *See Newell v. Fla. Dep't of Corr.*, 214 So. 3d 721, 722–23 (Fla. 1st DCA 2017). The Court grants the petition for writ of certiorari, reverses the circuit court's

October 12, 2021, Order Granting Petitioner's Motion for Rehearing, Vacating Order Entered on August 31, 2021, and Denying Emergency Petition for Writ of Habeas Corpus to the extent that it wholly denied relief, and remands with directions that the circuit court order the Department to redetermine Petitioner's incentive gain-time and sentence completion date in light of the circuit court's finding that he is eligible for incentive gain-time awards.

ROWE, C.J., and ROBERTS and RAY, JJ., concur.

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

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Robert David Malove of The Law Office of Robert David Malove, P.A., Fort Lauderdale, for Petitioner.

Ashley Moody, Attorney General, and Kristen J. Lonergan, Assistant Attorney General, Tallahassee, for Respondent.