

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
VOLUSIA COUNTY, FLORIDA

TIMOTHY P. MCGRAIL, JR.,
Petitioner,

CASE NO.: 2014 41892 CIDL

vs.

DIVISION: 01 Judge Raul A. Zambrano

LINDA MARTIN

Respondent.

**SUA SPONTE ORDER DISMISSING PETITION FOR WRIT OF MANDAMUS
AS BEING LEGALLY INSUFFICIENT, PREMATURE AND
FAILING TO STATE A CLEAR CAUSE OF ACTION**

THIS CAUSE came before this Court upon the Petitioner's Petition for Writ of Mandamus, and after a review of the Petition, and the applicable law, it is hereby,

ORDERED AND ADJUDGED that the Petition should be dismissed without a hearing because it is premature, legally insufficient and it fails to state a cause of action. Relief via the extraordinary writ of mandamus is available only where the pleader asserts "a clear legal right to the performance of a clear legal duty by a public officer and that he has no other legal remedies available to him." *Rhea v. Dist. Bd. of Trs. of Santa Fe Coll.*, 109 So.3d 851, 855 (Fla. 1st DCA 2013).

Petitioner is a criminal defendant in case 2014 100556 MMDL. Petitioner claims to be self represented in the criminal case which is now pending in the County Court of Volusia County. In his pro-se capacity, Petitioner demands certain items (presumably evidence) from "Linda Martin of the Deland Police Department."

After a review of the petition, this Court finds that the Petition is legally insufficient, premature and that it fails to state a cause of action. Some of the reasons are listed below: