

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, STATE OF FLORIDA  
APPELLATE DIVISION**

**DEMETRIUS L. WALKER,**  
Petitioner,

**REF: 20-000033AP-88A  
UCN: 522020AP000033XXXXCI**

**-vs-**

**KEN BURKE, as Clerk of the Circuit  
Court of the Sixth Judicial Circuit in and for  
Pinellas County, Florida,  
Respondent.**

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**ORDER DISMISSING PETITION FOR WRIT OF MANDAMUS**

**THIS MATTER** came to be heard on Petitioner's Writ of Mandamus filed on August 11, 2020. The petition seeks to compel Respondent to provide copies of any and all documents in a separate cause of action between the Petitioner and the Department of Revenue without assessing a clerical charge.

**JURISDICTION:**

This Court has jurisdiction to issue writs of mandamus. Art. V, § 5(b), Fla. Const.

**BRIEF PROCEDURAL FACTS:**

At the time of the filing of this Petition, Mr. Walker was incarcerated in the Florida Department of Corrections. Mr. Walker was seeking all

documents in a pending Title VI-D case, 11-6603: Ikeya R. Pitts v Demetrius L. Walker as of May 18, 2020 pursuant to a Fla. Stat. 119.01. The Clerk of Court responded May 18, 2020 that "PACKET AND FORM COST CANNOT BE WAIVED. Other COPIES ARE \$1.00 PER PAGE. TOTAL COST IS \$21.00. THANK YOU." The correspondence also states "Effective July 1, 2004, the fees/costs are no longer waived if you are found indigent. A deferred payment account will be established for the amount of fees/costs being deferred along with a one-time service charge of \$25.00. A lien will be placed on your inmate trust account and payments may be charged against your account until our fees/costs are paid in full." Mr. Walker made additional requests for the copies on June 1, 2020 and July 1, 2020. On July 6, 2020, Mr. Walker filed a Petition for Writ of Mandams (sic) with the Pinellas Clerk of Court which was then accepted by the Second District Court. On August 11, 2020, the District Court transferred Mr. Walker's Petition for Writ of Mandamus to the Sixth Judicial Circuit.

## **DISCUSSION:**

"While a writ of mandamus is an extraordinary remedy, its issuance is appropriate when necessary to vindicate the rights of citizens when a governmental agency or official has refused to perform a ministerial duty that the petitioner has established a clear legal right to see performed." *Dante v.*

*Ryan*, 979 So. 2d 1122, 1123 (Fla. 3d DCA 2008). “A writ of mandamus is used to enforce an established legal right by compelling a public officer or agency to perform a duty required by law.” *Lee Cnty. v. State Farm Mut. Auto. Ins. Co.*, 634 So.2d 250, 251 (Fla. 2d DCA 1994).

Chapter 119, Florida Statutes, permits a custodian of public records to charge a fee. Florida Statute §28.24 permits the clerk of the circuit court to “charge for making copies by photographic process of any instrument in the public records.” Effective July 1, 2004, Florida Statute 28.246(4) was amended to provide that fees and or costs are no longer waived if a litigant is found indigent. Florida Statute 28.246(b) provides that “an individual seeking to defer payment of fees, service charges, court costs or fines imposed by operation of law or order of the court under any provision of general law shall apply to the clerk for enrollment in a payment plan.”

The Court finds that the Petitioner is not entitled to mandamus relief. The Court finds that the Clerk of Court properly carried out its ministerial duty by notifying Petitioner the cost of providing the requested copies and that a deferred payment account would be established for the amount of the fees/costs being deferred. The Court finds that the Clerk of Court has no discretion to waive fees or costs. There is nothing in the record to reflect that

Petitioner has applied to the clerk for enrollment in a payment plan.

Accordingly, it is

**ORDERED AND ADJUDGED** that Petitioner's Petition for Writ of Mandamus is **DENIED**.

**DONE AND ORDERED** in Chambers at Clearwater, Pinellas County, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Original Order entered on March 8, 2022, by Circuit Judges Sherwood Coleman, Patricia A. Muscarella, and George M. Jirotko.

*Copies furnished to:*

Demetrius L. Walker  
1522 21<sup>st</sup> Avenue South  
St. Petersburg, FL 33705

Ken Burke, Clerk of the Court  
315 Court Street  
Clearwater, FL 33756