

# Supreme Court of Florida

THURSDAY, SEPTEMBER 13, 1984

JIM FAIR,

\*\*

Petitioner,

\*\*

\*\*

vs.

\*\*

CASE NO. 65,693

\*\*

JAMES ANTISTA, et al.,

\*\*

Respondents.

\*\*

---

Upon consideration of the Petition for Writ of Mandamus, it is ordered by the Court that said petition be and the same is hereby denied.

OVERTON, ALDERMAN, McDONALD and EHRLICH, JJ., Concur  
BOYD, C.J., Specially concurs with an opinion, in which SHAW, J.,  
Concurs  
ADKINS, J., Dissents

A True Copy

TEST:

JB

cc: Jim Fair, in proper person  
Tallahassee, Florida  
for Petitioner

Sid J. White  
Clerk Supreme Court.

Joseph Lewis, Jr., Assistant  
Attorney General  
Tallahassee, Florida  
for Respondents

BOYD, C.J., concurring specially.

I concur in the Court's denial of the petition for writ of mandamus. Although I believe that the factual allegations of the petition do state a case of wrongful deprivation of fundamental rights, I must nevertheless conclude that the petitioner Mr. Fair has failed to bring his action against the proper defendant.

Mr. Fair's pro se petition, filed in forma pauperis, asks us to direct the respondent officers of the Florida Department of State to maintain uniformity in the application of the election laws, as is the Department's duty, under section 97.012(1), Florida Statutes (1983), by ensuring that any adjudication of incompetency is lawful and valid before a citizen is denied the right to vote. Mr. Fair alleges that he was adjudicated incompetent by a court lacking jurisdiction to make such a judgment. But his petition does not show how the Department of State is involved nor what action the Department could take to correct the wrong alleged to have been done to him. At the very least, the petition fails to allege a clear ministerial duty of the Department to take action beneficial to Mr. Fair. Mr. Fair's grievance is against the court alleged to have wrongfully adjudicated him incompetent. There are legal remedies available for the redress of the alleged wrong done to him, but he must proceed against the proper parties.

SHAW, J., Concur