

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Wendall Hall v. Ms. Reynolds and Captain Bush

Hall · No. 2D18-2948 · Decided February 20, 2019

SUMMARY

The Florida Second District Court of Appeal partially dismissed and partially denied Wendall Hall's petition for writ of certiorari. The court dismissed review of the order setting aside the clerk's default and denying default judgment, and denied review of Hall's remaining arguments because the trial court did not depart from the essential requirements of law.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Per Curiam; VILLANTI, J.; LUCAS, J.; ROTHSTEIN-YOUAKIM, J.
JURISDICTION	Florida
DECIDED	February 20, 2019
DOCKET	2D18-2948
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petition for writ of certiorari seeking review of a circuit court order that set aside the clerk's default, denied Hall's motion for default judgment, and addressed Hall's remaining arguments.
STANDARD OF REVIEW	Certiorari review asks whether the lower court departed from the essential requirements of law; an order setting aside a clerk's default is generally not reviewable by certiorari absent extraordinary circumstances.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Wendall Hall v. Ms. Reynolds, Captain Bush

TOPICS

- writ of certiorari
- default
- default judgment
- appellate jurisdiction
- civil procedure

PRACTICE AREAS

- Civil procedure
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the District Court of Appeal had jurisdiction to review by writ of certiorari the portion of the circuit court's order setting aside the clerk's default and denying Hall's motion for default judgment.
2. Whether the circuit court departed from the essential requirements of law in the matters raised in Hall's remaining arguments.

HOLDINGS

1. The petition for writ of certiorari must be dismissed insofar as it challenged the portion of the circuit court's order setting aside the clerk's default and denying Hall's motion for default judgment, because such an order is not an appealable nonfinal order and is generally not reviewable by certiorari absent extraordinary circumstances.
2. The petition for writ of certiorari was denied as to Hall's remaining arguments because the trial court did not depart from the essential requirements of law.

KEY QUOTATIONS

“Absent extraordinary circumstances, such an order is also not reviewable by certiorari, as certiorari should not be used to circumvent the appellate rule which limits interlocutory review of non-final orders.”

FACTUAL BACKGROUND

The circuit court entered an order setting aside the clerk's default and denying Hall's motion for default judgment. Hall also raised additional arguments concerning the circuit court proceedings. The District Court of Appeal reviewed the record and found no departure from the essential requirements of law on the remaining issues.

PROCEDURAL HISTORY

Hall petitioned the District Court of Appeal for certiorari review of an order entered by the Circuit Court for Charlotte County. The appellate court dismissed the petition insofar as it challenged the order setting aside the clerk's default and denying default judgment, and denied the petition as to the remaining arguments because the trial court did not depart from the essential requirements of law.

DISPOSITION

dismissed

CASES CITED

- Dawkins, Inc. v. Huff, 836 So. 2d 1062, 1065 (Fla. 5th DCA 2003)
- Rodriguez v. Young Am. Corp., 717 So. 2d 621, 621 (Fla. 3d DCA 1998)

OPINION

WENDALL HALL v. CAPTAIN BUSH

PER CURIAM.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING

MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

SECOND DISTRICT

WENDALL HALL, DOC #379682,)

) Petitioner,)) v.) Case No. 2D18-2948) MS. REYNOLDS, mental health) counselor; and
CAPTAIN BUSH,)) Respondents.)) Opinion filed February 20, 2019. Petition for Writ of
Certiorari to the Circuit Court for Charlotte County; Lisa S. Porter, Judge. Wendall Hall, pro se.
Ashley Moody, Attorney General, Tallahassee, and Kenneth V. Wilson, Assistant Attorney
General, Tampa, for Respondent Captain Bush. No appearance for remaining Respondent. PER
CURIAM. We dismiss the petition for writ of certiorari as it relates to the portion of the order
setting aside the clerk's default and denying Mr. Hall's motion for default judgment. See Dawkins,
Inc. v. Huff, 836 So. 2d 1062, 1065 (Fla. 5th DCA 2003) ("[W]e must dismiss this appeal. An
order on a motion to set aside a clerk's default is not an appealable, non-final order under Florida
Rule of Appellate Procedure 9.130(a)(3). Absent extraordinary circumstances, such an order is also
not reviewable by certiorari, as certiorari should not be used to circumvent the appellate rule
which limits interlocutory review of non-final orders." (citation and footnote omitted)); Rodriguez
v. Young Am. Corp., 717 So. 2d 621, 621 (Fla. 3d DCA 1998) ("Because the appellants seek
review of an order setting aside the entry of a default as opposed to a default judgment, we sua
sponte dismiss this appeal for lack of jurisdiction."). Having carefully reviewed the record as to
Mr. Hall's remaining arguments, we deny the petition for writ of certiorari as the trial court did not
depart from the essential requirements of law. Dismissed in part; denied in part. VILLANTI,
LUCAS, and ROTHSTEIN-YOUAKIM, JJ., Concur. -2-