

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Richard Harper v. City of Key Colony Beach

No. 3D25-0381 (Fla. 3d DCA Sept. 17, 2025) · No. No. 3D25-0381 · Decided September 17, 2025

SUMMARY

The Florida Third District Court of Appeal denied Richard Harper’s petition for second-tier certiorari review of a circuit court decision upholding a code-enforcement fine concerning an allegedly expired building permit. The court held that Harper failed to show a departure from the essential requirements of law under the limited scope of second-tier certiorari review. The court also concluded that the circuit court’s “all writs” authority did not independently support relief.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Judge Logue; Emas; Logue; Gordo
JURISDICTION	Florida Third District Court of Appeal
DECIDED	September 17, 2025
DOCKET	No. 3D25-0381
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Petition for second-tier certiorari review of a January 3, 2025 circuit-court appellate opinion that upheld a December 1, 2023 Special Magistrate's Code Enforcement Final Order Imposing Fine; petitioner also sought relief under the circuit court's all-writs authority.
STANDARD OF REVIEW	Second-tier certiorari review is limited to whether the circuit court afforded procedural due process and applied the correct law, or otherwise departed from the essential requirements of law. The all-writs authority is reviewed for legal error in denying relief.
PRECEDENTIAL VALUE	published
PARTIES	Richard Harper v. City of Key Colony Beach

TOPICS

- writ of certiorari
- appellate procedure
- municipal law
- ordinances
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the circuit court departed from the essential requirements of law or failed to afford procedural due process when it upheld the Special Magistrate's Code Enforcement Final Order Imposing Fine.
2. Whether the circuit court could grant Harper relief under its constitutional all-writs authority absent an independent basis for exercising that authority.

HOLDINGS

1. The petition for second-tier certiorari was denied because Harper did not establish that the circuit court failed to afford procedural due process or departed from the essential requirements of law.
2. The circuit court's all-writs authority was not an independent basis for granting Harper relief; because Harper identified no independent constitutional or legal basis allowing the circuit court to exercise that authority, the denial of his petition was not legal error.

KEY QUOTATIONS

“when a district court considers a petition for second-tier certiorari review, the ‘inquiry is limited to whether the circuit court afforded procedural due process and whether the circuit court applied the correct law,’ or, as otherwise stated, departed from the essential requirements of law.” (at 2)

“The authority to issue “all writs,” however, is not an independent basis to grant relief but only a vehicle to protect, usually by stays, the court’s jurisdiction to provide other forms of relief expressly enumerated in the constitution.” (at 2)

FACTUAL BACKGROUND

Richard Harper owned residential property in the City of Key Colony Beach and obtained building permit 11261 in September 2019 to renovate the property. He began construction on October 1, 2019, and the governing code required completion within fifteen months, although the City extended the permit for several years because of the COVID-19 pandemic and other matters. The City ultimately determined that the permit had expired without completion of the work and sanctioned Harper through code-enforcement proceedings.

PROCEDURAL HISTORY

Harper obtained a city building permit for renovations, but the City determined that the permit had expired before the work was completed and imposed sanctions. In a prior proceeding, the Third District denied second-tier certiorari review of a circuit-court opinion upholding a Code Enforcement Board order finding permit expiration, imposing a fine, and requiring Harper to refile for a continuation permit. In this proceeding, the circuit court upheld a later Special Magistrate's final order imposing a fine, and the Third District denied Harper's renewed certiorari petition and rejected his all-writs claim.

DISPOSITION

CASES CITED

- Harper v. City of Key Colony Beach, 394 So. 3d 205 (Fla. 3d DCA 2024)
- Custer Med. Ctr. v. United Auto. Ins. Co., 62 So. 3d 1086, 1092 (Fla. 2010)
- Haines City Cmty. Dev. v. Heggs, 658 So. 2d 523, 530 (Fla. 1995)
- Williams v. State, 913 So. 2d 541, 543-44 (Fla. 2005)
- St. Paul Title Ins. Corp. v. Davis, 392 So. 2d 1304, 1305 (Fla. 1980)

OPINION

Richard Harper v. City of Key Colony Beach

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed September 17, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D25-0381 Lower Tribunal No. 24-AP-2-M _____ Richard Harper, Petitioner, vs. City of Key Colony Beach, Respondent. On Petition for Writ of Certiorari from the Circuit Court for Monroe County, Timothy J. Koenig, Judge. Andrew M. Tobin, P.A., and Andrew M. Tobin (Tavernier), for petitioner. Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A., and Jeffrey L. Hochman (Fort Lauderdale), for respondent. Before EMAS, LOGUE, and GORDO, JJ. LOGUE, J. Richard Harper, an owner of residential property in the City of Key Colony Beach, obtained City building permit 11261 to make renovations on his property in September 2019, and began construction on October 1, 2019. Under the terms of the governing code, Harper was required to complete the work within fifteen months. Nevertheless, due to the COVID pandemic and other matters, Harper’s permit was extended for several years. The City, however, ultimately took the position that the permit had expired without completion of the work and began sanctioning Harper. In a prior matter, we denied Harper’s petition for second-tier certiorari review of an August 14, 2023 opinion of the circuit court appellate division. In that opinion, the circuit court upheld an order of the City’s Code Enforcement Board finding that the permit had expired, fining Harper, and requiring him to refile for a continuation permit to complete the work. Harper v . City of Key Colony Beach, 394 So. 3d 205 (Fla. 3d DCA 2024). In the instant case, Harper again seeks second-tier certiorari review, this time seeking to quash the January 3, 2025 opinion of the circuit court sitting in its appellate capacity. This opinion upheld a December 1, 2023 Special Magistrate’s Code Enforcement Final Order Imposing Fine. He again asserts that his permit never expired. For essentially the same reasons, we again deny this petition for second-tier certiorari, mainly due to the extremely limited nature of the review provided by this remedy. Id. See also Custer 2 Med. Ctr. v. United Auto. Ins. Co., 62 So. 3d 1086, 1092 (Fla. 2010) (“[W]hen a district court considers a petition for second-tier certiorari review, the ‘inquiry is limited to whether the

circuit court afforded procedural due process and whether the circuit court applied the correct law,’ or, as otherwise stated, departed from the essential requirements of law.”) (quoting *Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523, 530 (Fla. 1995)). Harper also seeks review of the circuit court’s denial of his petition for relief under the circuit court’s “all writs” authority. Harper accurately points out that Florida circuit courts are constitutionally authorized “to issue writs of mandamus, quo warranto, certiorari, prohibition and habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction.” Art. V, § 5(b), Fla. Const. The authority to issue “all writs,” however, is not an independent basis to grant relief but only a vehicle to protect, usually by stays, the court’s jurisdiction to provide other forms of relief expressly enumerated in the constitution. Because Harper did not cite an independent basis that would allow the circuit court to exercise its all writs authority, we find no legal error in the trial court’s denial of the petition. See *Williams v. State*, 913 So. 2d 541, 543-44 (Fla. 2005); *St. Paul Title Ins. Corp. v. Davis*,

392 So. 2d 1304, 1305 (Fla. 1980).

Petition denied. 3