

FLORIDA THIRD DISTRICT COURT OF APPEAL

Ervin Jose Roblero v. Gladys Velasquez

No. 3D24-1340 · No. 3D24-1340 · Decided July 9, 2025

SUMMARY

The Third District Court of Appeal of Florida affirmed the circuit court's decision in a family-law appeal. The court held that the appellant's issues were not preserved for appellate review because the appellant did not properly challenge the general magistrate's recommended order. The opinion was issued per curiam and was marked not final pending disposition of any timely motion for rehearing.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	SCALES, C.J.; EMAS, J.; MILLER, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	July 9, 2025
DOCKET	3D24-1340
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Circuit Court for Miami-Dade County concerning issues arising from a recommended order or judgment of a general magistrate.
STANDARD OF REVIEW	The court reviewed whether the issues were preserved for appellate review.
PRECEDENTIAL VALUE	published
PARTIES	Ervin Jose Roblero v. Gladys Velasquez

TOPICS

- family law procedure
- preservation of error
- appellate procedure
- family law

PRACTICE AREAS

- family law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the appellant properly preserved the issues raised on appeal by timely moving to vacate or otherwise challenging the general magistrate's recommended order.

HOLDINGS

1. Issues arising from a general magistrate's recommended order are not preserved for appellate review when the affected party fails to timely move to vacate the order or otherwise file the required exceptions or challenge.

KEY QUOTATIONS

“Upon our review, we affirm, holding that the issues raised by appellant were not properly preserved for appellate review.” (2)

“The consequence of not filing exceptions [to a general magistrate’s report and recommendation] is a failure to preserve the issue for appellate review.” (2)

FACTUAL BACKGROUND

The appeal involved a circuit court order adopting or entering a recommended order associated with a general magistrate proceeding. The appellant raised issues on appeal but did not properly invoke the procedure for challenging the recommended order within the prescribed period. The appellate court therefore affirmed without reaching the merits of the unpreserved issues.

PROCEDURAL HISTORY

Roblero appealed a circuit court ruling. The Third District Court of Appeal held that the issues raised on appeal were not properly preserved because appellant did not timely pursue the required procedure for challenging the general magistrate's recommended order, and affirmed.

DISPOSITION

affirmed

CASES CITED

- Mio Gourmet Prods., LLC v. 645 W 27 LLC, 320 So. 3d 998 (Fla. 3d DCA 2021)
- Garrison v. PHH Mortg. Corp., 298 So. 3d 116, 118 (Fla. 1st DCA 2020)
- Fluhart v. Rasmussen, 383 So. 3d 889, 889-90 (Fla. 5th DCA 2024) (en banc)

OPINION

Ervin Jose Roblero v. Gladys Velasquez

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed July 9, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D24-1340 Lower Tribunal No. 21-9939-FC-04 _____ Ervin Jose Roblero, Appellant, vs. Gladys

Velasquez, Appellee. An Appeal from the Circuit Court for Miami-Dade County, Ivonne Cuesta, Judge. Karen B. Parker, P.A., and Karen B. Parker, for appellant. No appearance, for appellee. Before SCALES, C.J., and EMAS and MILLER, JJ. PER CURIAM. Upon our review, we affirm, holding that the issues raised by appellant were not properly preserved for appellate review. See Fla. Fam. L. R. P. 12.490(e)(3) (“On receipt of a recommended order, the court must review the recommended order and must enter the order promptly unless the court finds that the recommended order is facially or legally deficient, in which case, it must identify the deficiency by written order and remand to the general magistrate to address and, if necessary, conduct further proceedings without the necessity of a new order of referral to general magistrate. Any party affected by the order may move to vacate the order by filing a motion to vacate within 15 days from the date of entry.”) (emphasis added); *Mio Gourmet Prods., LLC v. 645 W 27 LLC*, 320 So. 3d 998 (Fla. 3d DCA 2021) (“The consequence of not filing exceptions [to a general magistrate’s report and recommendation] is a failure to preserve the issue for appellate review.”) (quoting *Garrison v. PHH Mortg. Corp.*, 298 So. 3d 116, 118 (Fla. 1st DCA 2020)); *Fluhart v. Rasmussen*, 383 So. 3d 889, 889-90 (Fla. 5th DCA 2024) (en banc) (holding that appellant’s “failure to move to vacate the GM’s recommended final judgment adopted by the trial court resulted in a failure to preserve for appellate review” the issues raised on appeal). Affirmed. 2